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# ENVIRONMENTAL ASSESSMENT BOARD

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VOLUME: 128

DATE: Tuesday, August 29th, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

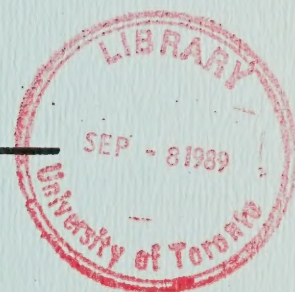
A. KOVEN, Member

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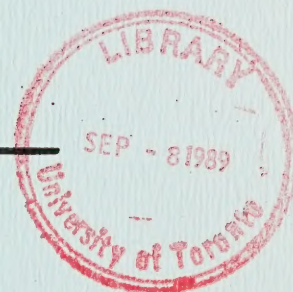
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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the  
Honourable Jim Bradley, Minister of the  
Environment, requiring the Environmental  
Assessment Board to hold a hearing with  
respect to a Class Environmental  
Assessment (No. NR-AA-30) of an  
undertaking by the Ministry of Natural  
Resources for the activity of timber  
management on Crown Lands in Ontario.

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Hearing held at the Ramada Prince Arthur  
Hotel, 17 North Cumberland St., Thunder  
Bay, Ontario, on Tuesday, August 29th,  
1989, commencing at 8:30 a.m.

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VOLUME 128

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member





A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH )	RESOURCES
MS. K. MURPHY )	
MS. Y. HERSCHER )	
MR. B. CAMPBELL )	MINISTRY OF ENVIRONMENT
MS. J. SEABORN )	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN )	ASSOCIATION and ONTARIO
MS. E. CRONK )	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY )	ASSOCIATION
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MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES )	ASSOCIATION
MR. R. EDWARDS )	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION





APPEARANCES: (Cont'd)

MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD )	
MR. J.W. ERICKSON, Q.C.)	RED LAKE-EAR FALLS JOINT
MR. B. BABCOCK )	MUNICIPAL COMMITTEE
MR. D. SCOTT )	NORTHWESTERN ONTARIO
MR. J.S. TAYLOR)	ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL)	GREAT LAKES FOREST
MR. S.M. MAKUCH )	
MR. J. EBBS	ONTARIO PROFESSIONAL FORESTERS ASSOCIATION
MR. D. KING	VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. D. COLBORNE	GRAND COUNCIL TREATY #3
MR. R. REILLY	ONTARIO METIS & ABORIGINAL ASSOCIATION
MR. H. GRAHAM	CANADIAN INSTITUTE OF FORESTRY (CENTRAL ONTARIO SECTION)
MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
MR. S.J. STEPINAC	MINISTRY OF NORTHERN DEVELOPMENT & MINES
MR. M. COATES	ONTARIO FORESTRY ASSOCIATION
MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY





APPEARANCES: (Cont'd)

MR. R.L. AXFORD

CANADIAN ASSOCIATION OF  
SINGLE INDUSTRY TOWNS

MR. M.O. EDWARDS

FORT FRANCES CHAMBER OF  
COMMERCE

MR. P.D. McCUTCHEON

GEORGE NIXON

MR. C. BRUNETTA

NORTHWESTERN ONTARIO  
TOURISM ASSOCIATION





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I N D E X   O F   P R O C E E D I N G S

Witness:

Page No.

<u>BRUCE ADAMSON,</u>	
<u>SERGE TENAGLIA,</u>	
<u>NEVILLE WARD,</u>	
<u>GORDON PYZER,</u>	
<u>DAVID M. HOGG, Resumed</u>	21683
Continued Cross-Examination by Mr. Edwards	21683





(v)

I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
780	Letter from Mr. Currie, District Manager, Nipigon District, dated June 29, 1989 along with map entitled: Proposed Amendment, Nipigon District Land Use Guidelines.	21688



1 ---Upon commencing at 8:35 a.m.

2 THE CHAIRMAN: Good morning. Please be  
3 seated.

4 MS. BLASTORAH: Mr. Chairman, just one  
5 housekeeping matter. I now have copies of Exhibit 779  
6 which was the memorandum to Mr. Pyzer relating to  
7 travel on closed road charges. So I will make those  
8 available to the Board and the parties.

9 THE CHAIRMAN: Thank you.

10 We are ready, Mr. Edwards.

11 MR. EDWARDS: Yes. Thank you, Mr.  
12 Chairman.

13 BRUCE ADAMSON,  
14 SERGE TENAGLIA,  
NEVILLE WARD,  
15 GORDON PYZER,  
DAVID M. HOGG, Resumed

16 CONTINUED CROSS-EXAMINATION BY MR. EDWARDS:

17 Q. Mr. Tenaglia, yesterday I asked you a  
18 couple of questions with respect to the District Land  
19 Use Guidelines in the Nipigon District and I have a few  
20 more, just hoping to get to a general point from a  
21 specific example.

22 I understand, sir, that you were the  
23 forest management supervisor in the Nipigon District  
24 from July of '84 until October of '87?

25 MR. TENAGLIA: A. That's correct.



1 Q. And in October of '87 you went to the  
2 Wawa District?

3 A. That's correct.

4 Q. Now, at page 66 of the witness  
5 statement there is a list of the location of -- of  
6 factors influencing the location of forest access road  
7 corridors. Do you have that page, sir?

8 A. Yes, I do.

9 Q. Now, No. 4 refers to the factor of:  
10 "identified values and features (eg.  
11 aquatic, terrestrial, recreational,  
12 aesthetics, safety and other areas of  
13 concern) which may affect road locations  
14 in specific areas or the recognition that  
15 resource extraction may not be the  
16 primary use..."

17 And the example given, of course, is the  
18 Nipigon District Land Use Guidelines, Area No. 10 in  
19 Caribou Lake, and that's reference 1 and I believe that  
20 is reproduced, as we noted yesterday, at pages 100 to  
21 102.

22 When you were the forest management  
23 supervisor, did you find that the land use guidelines  
24 were influential with respect to determining land use  
25 in your district?

1                   A. They were influential in helping us  
2 determine how to deal with particular issues,  
3 particularly road issues in and around the zone 10, the  
4 Caribou Lake zone.

5                   Q. Were they influential with respect to  
6 land use decisions?

7                   A. Well, the land use decision is  
8 already made through the District Land Use Guidelines.

9                   Q. I see. And when you were forest  
10 management supervisor, did you attempt to apply the  
11 guidelines in your practice?

12                  A. Certainly relative to roads, the  
13 roads that were heading into that area. The decision  
14 in the district was to -- because of the importance of  
15 commercial tourism and public recreation, a decision in  
16 the district was to gate the roads that were heading  
17 into that zone to protect -- to afford commercial  
18 tourism the strongest protection that we felt we could  
19 afford it.

20                  Q. Did the protection for commercial  
21 tourism -- or did the protection for tourism include  
22 the 120-metre shoreline reserve on designated canoe  
23 routes?

24                  A. In any of the planning processes, I  
25 don't know -- or I don't recall that there was any

1 harvesting proposed around canoe routes during my time  
2 in Nipigon.

3 Q. Yes, but from your experience in  
4 Nipigon, did you understand that the 120-metre  
5 shoreline reserve on designated canoe routes was  
6 intended to protect tourism values?

7 A. Yes. That's one means of protecting  
8 tourism values.

9 Q. It certainly is. And that 120-metre  
10 shoreline reserve was inserted after a lengthy planning  
11 process, both at the strategic level and at the  
12 district level?

13 A. Yes, through the approval of District  
14 Land Use Guidelines.

15 Q. Yes. And I understand, sir, that 200  
16 metres would be the ordinary reserve for a waterway  
17 park. Do you know that, or do you agree with that?

18 A. I'm aware that there's a number of  
19 waterway parks, yes, with a 200-metre area of concern  
20 or reserve. I don't know if that's the provincial  
21 standard. Maybe Mr. Pyzer --

22 Q. Mr. Pyzer was nodding his head.  
23 Would you be aware, sir, if that's a regularly used  
24 figure for waterway parks, if not a standard?

25 MR. PYZER: A. I couldn't say



1 definitively. I know it's larger than 120 though and  
2 200 does seem to stick in my mind, but I wouldn't want  
3 to -- I'm certainly not an expert on that.

4 Q. Mr. Tenaglia, you are familiar with  
5 the figure of 200 as being regularly used in waterway  
6 parks; are you?

7 MR. TENAGLIA: A. Yes.

8 Q. Thank you. Now, designated canoe  
9 routes would be created for some of the same reasons as  
10 a waterway park in your experience; is that correct,  
11 Mr. Tenaglia?

12 A. They're identified to afford them, I  
13 guess, more protection and to recognize their value.

14 Q. And is that a special recreation and  
15 touristic value that's recognized?

16 A. Yes.

17 Q. Now, the designated canoe routes that  
18 were provided the protection of a 120-metre shoreline  
19 reserve were not inside Wabakimi Provincial Park; they  
20 tended, sir, to be rivers which flowed through the  
21 park, but the actual reserve was, in all cases, outside  
22 of the park; is that correct?

23 A. Yes, I would agree with you there.

24 Q. Sir, I'm going to produce and show to  
25 you a document dated June 29th, 1989 which is a letter

1 from a Mr. Currie, the District Manager in Nipigon  
2 District, with respect to a public notice. The letter  
3 is just addressed to "Dear Sir or Madam", and contains  
4 a public notice and a fact sheet. I'm also going to  
5 provide to you, sir, a map which apparently accompanied  
6 this correspondence.

7 MR. EDWARDS: I have one good copy and a  
8 number of photocopies which I have attempted to  
9 replicate the important parts of the map on. Even on  
10 the original, Mr. Chairman, it's difficult to read and  
11 I will just tender it, if I may, it is the best copy  
12 that I could come up with. (handed)

13 THE CHAIRMAN: Thank you. These two  
14 documents will be Exhibit 780. Mr. Edwards?

15 MR. EDWARDS: Yes.

16 THE CHAIRMAN: We need one more copy of  
17 the letter up here. Do you have another copy of that?

18 MR. EDWARDS: (handed)

19 ---EXHIBIT NO. 780: Letter from Mr. Currie, District  
20 Manager, Nipigon District, dated  
21 June 29, 1989 along with map  
22 entitled: Proposed Amendment,  
Nipigon District Land Use  
Guidelines.

23 MR. EDWARDS: Q. Sir, I understand on  
24 the map there are a number of river or canoe routes  
25 marked in red, that would be in the northwest most

1 portion of the map?

2 MR. TENAGLIA: A. North of the CN line?

3 Q. North of the CN line.

4 A. And in zone 10.

5 Q. In zone 10. And I understand that  
6 zone 10 is indicated by the heavy black line which  
7 really follows the CN line coming horizontally across  
8 the map and then curves off to the northeast?

9 A. Yes.

10 Q. And I think it's possible to identify  
11 Wabakimi Provincial Park as the -- in the northwest  
12 quadrant of that map?

13 A. Yes.

14 Q. And I understand, to synopsise, that  
15 the changes proposed is with respect to a 120-metre  
16 shoreline reserve on a number of waterbodies. And  
17 starting from the lower left, just to the very  
18 southwest of Wabakimi Provincial Park, I understand  
19 that that is the Nemo River?

20 A. Yes.

21 Q. And the next one I believe, although  
22 it's not very legible even on the original, is the  
23 Balfour River?

24 A. Correct.

25 Q. Then Lookout River?



1 A. I can't see that.

2 Q. Well, I see the word Lookout on my  
3 copy here.

4 A. How's that?

5 Q. You have Onamakawash Lake and--

6 A. Yes, just to the --

7 Q. --Lookout River flows to the  
8 northeast from Onamakawash Lake?

9 A. Okay, sorry.

10 Q. Yes. The next one going to the south  
11 east corner of Wabakimi Provincial Park would appear to  
12 be the Tamarack River?

13 A. That's correct.

14 Q. And then there is a canoe route which  
15 goes through Caribou Lake and Gibson Lake?

16 A. That's right.

17 Q. Yes. And this is, of course, the  
18 Caribou Lake -- zone 10 is referred to as Caribou Lake,  
19 and then there's the Caribou River?

20 A. Yes.

21 Q. Part of which does not appear to flow  
22 through the -- or to the park. Then coming from the  
23 northeast arm of the park -- or rather the eastern arm  
24 of the park, would appear to be a route to Whitewater  
25 Lake. Do you know what water body that is?

1 A. Yes, I do.  
2 Q. Which one is that?  
3 A. Just northeast of Wabakimi.  
4 Whitewater?  
5 Q. Well, no, the route which flows from  
6 the eastern arm of the park up towards Whitewater Lake.  
7 A. Yes, McKinley Lake.  
8 Q. Through McKinley, yes.  
9 A. Yes.  
10 Q. Which river is that -- which canoe  
11 route is that; do you know?  
12 A. That may be the part of the Ogoki  
13 River, I can't say for sure.  
14 Q. All right. And clearly the Ogoki  
15 River flows out of the park in the northern most  
16 portion?  
17 A. That's right.  
18 Q. Would the Allan Water be also on the  
19 west -- if this map was extended to the southwest,  
20 would the Allan Water River be included as a designated  
21 canoe route?  
22 A. I can't say for sure. I'm not sure  
23 what the guidelines for the Sioux Lookout District--  
24 Q. All right.  
25 A. --how they would address the Allan

1 Water.

2 Q. All right. And just for short form  
3 purposes, I believe to the north we have the Grayson  
4 River and Lake, Rockcliff Lake, Whitewater Lake and  
5 Whiteclay and the Pikitigushi River is on the far  
6 northeast of the zone. Would those all sound familiar  
7 and correct?

8 A. Yes.

9 Q. Generally, with the exception of the  
10 Pikitigushi, these rivers appear to flow in part  
11 through the -- or the canoe routes that they form part  
12 of go through Wabakimi Provincial Park; correct?

13 A. They do.

14 Q. Would you agree that there is quite a  
15 number of outfitters in the area on Smoothrock and  
16 Caribou and certainly on Whitewater in the Ogoki area?

17 A. Yes, there is and there's a lot of  
18 other interest groups that use -- heavily use Wabakimi  
19 Park.

20 Q. Right. A lot of canoeists?

21 A. That's right.

22 Q. Recreational users?

23 A. Yes.

24 Q. Now, sir, I'm going to direct your  
25 attention to the proposal which is set out in the fact

1 sheet.

2 MS. BLASTORAH: Mr. Chairman, did we get  
3 an exhibit number for this and is it all one package?

4 THE CHAIRMAN: We did, Exhibit 780.

5 MR. EDWARDS: Mr. Chairman, are the  
6 members of the Board having any trouble following on  
7 the map copies that you have? I can refer the original  
8 to you if you need it for a moment.

9 THE CHAIRMAN: No. I mean, we see the  
10 canoe routes outlined. It depends what your questions  
11 are.

12 MR. EDWARDS: Q. Sir, referring to the  
13 proposal at page 3 of the fact sheet, the amendment  
14 proposed is:

15 "To remove the 120-metre no-cut reserve  
16 on the designated canoe routes in Zone 10  
17 of the Nipigon District and actively  
18 manage these areas using the Timber  
19 Management Guidelines for the Protection  
20 of Tourism Values and the Timber  
21 Management Guidelines for the Protection  
22 of Fish Habitat."

23 It sets out the background and the  
24 immediate proposal by the MNR, and under the words The  
25 Proposal:



1 "The Ministry of Natural Resources  
2 proposes to actively manage the canoe  
3 routes in Zone 10 by using approved  
4 guidelines, in particular tourism,  
5 the Ministry proposes a consultative  
6 approach to produce variable dimension  
7 reserves which will provide maximum  
8 protection for the canoe routes."

9 Now, you indicated yesterday, sir, that  
10 you were not familiar with the idea that a proposed  
11 change to the DLUG was underway, but by reading this  
12 are you able to understand what the proposal is?

13 MR. TENAGLIA: A. Yes, and last night I  
14 did contact the district to confirm that there was this  
15 amendment.

16 Q. Oh, I see. So you've made some  
17 inquiries and--

18 A. Correct.

19 Q. --received some information; did you?

20 A. Yes.

21 Q. Now, the proposal requests that these  
22 changes, the proposed changes go to Mr. - and I  
23 apologize to this gentleman if I pronounce his name  
24 incorrectly - is it Mr. Wauksmith?

25 A. Yes, Bill Wauksmith.

1 Q. Bill Wauksmith. He is the unit  
2 forester and trained as a forester?

3 A. That's correct.

4 Q. Do you know him to be trained as a  
5 planner?

6 A. I'm not sure what formal training  
7 planners require. Maybe Mr. Pyzer wants to speak to  
8 that.

9 Q. Would he be regarded in the MNR  
10 scheme of things as a forester?

11 A. Certainly.

12 Q. Yes. And the reason given to the  
13 public for the change and justifying the change is that  
14 the consultative approach to produce variable dimension  
15 reserves will produce maximum protection for the canoe  
16 routes.

17 Now, sir, is the real reason -- or would  
18 the effect of this change really be to free up more  
19 wood to be cut?

20 A. I don't know that I can speak to  
21 that.

22 Q. Is there any other possible rationale  
23 that you can come up with from your experience in the  
24 Nipigon District? Would there be any pressure from any  
25 other group that you're aware of from your experience

1 in Nipigon?

2 THE CHAIRMAN: Mr. Freidin?

3 MR. FREIDIN: Mr. Chairman, I'm not too  
4 sure where my friend is going with this, but I can  
5 advise you that the thinking behind this proposal is no  
6 different than the thinking that went behind the change  
7 from the doughnuts that we dealt with in great detail  
8 in Panel No. 1 where, in fact, we decided that rather  
9 than just put on reserves with no consideration to  
10 whether the width of them was too wide or too narrow,  
11 that rather by just putting down a 120-metre reserve as  
12 something, these things would be looked at in a little  
13 bit more detail,

14 And, in fact, so there could be a  
15 decision made as to what was required to protect  
16 non-timber values, part of the rationale being where  
17 wood in fact could be made available where it was not  
18 necessary to tie it up, if that was a desirable thing  
19 to do.

20 So that this is nothing different than  
21 that and we have certainly dealt with that at great  
22 length.

23 THE CHAIRMAN: Well, with respect, Mr.  
24 Freidin, I think Mr. Edwards is entitled to explore  
25 what the rationale is behind this.

1 MR. FREIDIN: I got up to indicate what  
2 the rationale was. The witness was unable to do so.

3 MR. EDWARDS: Q. Sir, from your  
4 experience in the Nipigon District, particularly with  
5 respect to your experience in zone 10, would there be  
6 any pressure from the recreationists or from the  
7 tourist outfitters to decrease the size of the zone;  
8 would you expect that to happen?

9 MR. TENAGLIA: A. Yes, I think so.  
10 There is always pressure to increase the size of the  
11 zones.

12 Q. Sir, I asked you about whether there  
13 would be pressure from those groups to decrease the  
14 size of the zones?

15 A. Oh, sorry, I thought you said  
16 increase. No.

17 Q. No.

18 THE CHAIRMAN: Is it possible, Mr.  
19 Tenaglia, that going through this amendment procedure  
20 you would in fact end up with increases in the reserve?

21 MR. TENAGLIA: Quite possibly.

22 THE CHAIRMAN: In your opinion?

23 MR. TENAGLIA: Yes.

24 THE CHAIRMAN: And conversely also  
25 decreases; is that correct?



1 MR. TENAGLIA: Yes. And I think at least  
2 we would probably also get indications of other areas  
3 that we should consider where it's the specific areas  
4 where the increases should be.

5 And I would agree with Mr. -- certainly  
6 with what Mr. Freidin said. When the District Land Use  
7 Guidelines were developed, the straight line approach  
8 or the donought approach was the practice, and I think  
9 we are trying to change that approach and, where  
10 possible, we are trying to free up wood for the  
11 industry.

12 And I think that approach is addressed in  
13 the tourism guidelines where, in the concepts section  
14 of it, it talks about variable dimensions producing  
15 fixed results and fixed dimensions producing variable  
16 results. These fixed dimensions, these 120-metre  
17 reserves just do that, tie up a lot of timber and don't  
18 necessarily protect the values.

19 THE CHAIRMAN: Going back to an earlier  
20 area canvassed by Mr. Edwards, if it were a waterfront  
21 park and if, as you indicated, a 200-metre reserve is  
22 normal or found often, is the same rationale used by  
23 the Ministry with respect to waterfront parks, a  
24 straight line approach, a minimum of 200 metres, or do  
25 you also use variable dimensions for a waterfront park?

1                   MR. TENAGLIA: Well, that would be the  
2 baseline. We would start at 200 metres and then we  
3 would build on that by addressing -- by introducing  
4 other -- identifying other areas of concern and  
5 applying any mitigating measures.

6                   I believe I spoke to that in my lead  
7 evidence where I used the park as an example and I  
8 spoke how we would restrict roads -- tertiary roads in  
9 the area outside of the 200-metre zone of the park. We  
10 may very well build on that by adding skyline reserves  
11 in scenic vistas along the park.

12                  THE CHAIRMAN: But with respect to a  
13 waterfront park, you would still use a minimum  
14 dimension of, say, 200 metres and then increase it in  
15 areas where you thought it appropriate as opposed to  
16 decreasing the 200-metre reserve for a waterfront park?

17                  MR. TENAGLIA: I think a park would be a  
18 different situation as opposed to a canoe route. They  
19 are set in regulation and those boundaries are fixed.

20                  THE CHAIRMAN: Okay.

21                  MR. MARTEL: Could I ask a question? If  
22 you are establishing a park, would you move people out  
23 of them?

24                  A waterway park, for example, if there  
25 was something there and you were establishing it -

1 whether it be a tourist operator or a cottager - and  
2 you were establishing a new park, would you in fact  
3 move the people who were there out of the area?

4 MR. TENAGLIA: I don't think I can speak  
5 to that. Mr. Pyzer?

6 MR. PYZER: I don't think actually any of  
7 the panel here can speak to it. I certainly can't  
8 either.

9 There is a blue book -- there is a policy  
10 document on parks, a very thick voluminous document in  
11 terms of the classification of parks, how they're set  
12 up, the planning process one goes through. And in  
13 terms of all of these questions dealing with people,  
14 each one would be dealt with on a case-by-case basis  
15 and on a park-specific basis.

16 It's very, very difficult to answer that.  
17 With all due respect, I don't believe anyone on this  
18 panel is capable of doing that.

19 ---Discussion off the record

20 MR. EDWARDS: Thank you, Mr. Chairman.

21 Q. Sir, would you agree that the effect  
22 of this amendment, if it were to go through, is to take  
23 what is a designated tourism area and provide no other  
24 protections beyond those available throughout the area  
25 of the undertaking; that is to say, you apply the

1 Timber Management Guidelines for the Protection of  
2 Tourism Values, Fish Habitat, Moose Habitat, perhaps  
3 you actively manage, but in terms of minimal  
4 protections there is nothing beyond what everybody else  
5 has?

6 MR. TENAGLIA: A. Yes, I would agree  
7 with you. We are just actively trying to actively  
8 manage what was once looked at as -- what was thought  
9 as as an appropriate means of managing timber, the  
10 doughnut approach.

11 Q. And in response to the Chairman's  
12 question about whether it is possible, in certain  
13 circumstances, to actually increase the reserve on a  
14 particular portion of one of those canoe routes, would  
15 it be your understanding that the effect of this -- the  
16 net effect of this amendment will be to free up areas  
17 for timber management?

18 A. No, I don't know that I can agree  
19 with that.

20 Q. But you did indicate some concern;  
21 did you not, about wood which is locked in to these  
22 reserves unnecessarily?

23 A. Yes.

24 Q. And it's not available for timber  
25 management?



1 A. Yes.

2 Q. And that's an ongoing concern in the  
3 Ministry?

4 A. Yes, it is.

5 Q. Now, sir, going to these guidelines  
6 which I guess will be actively managed in this area if  
7 this amendment goes through to protect the tourism  
8 values, is it true that the Timber Management  
9 Guidelines for the Protection of Tourism Values in  
10 certain circumstances can allow cutting to the water's  
11 edge?

12 A. The tourism guidelines, yes, they  
13 would allow that. I don't know in this particular case  
14 whether that would be the intent.

15 Q. Now, with respect to the Timber  
16 Management Guidelines for the Protection of Fish  
17 Habitat, do they allow cutting to the shoreline, or is  
18 there a reserve set out in those, and I direct your  
19 attention to Table 1 of those guidelines?

20 A. Maybe Mr. Ward would like to speak to  
21 that.

22 Q. Yes, I would appreciate it. Mr.  
23 Ward, could you give us some instruction as to whether  
24 the Timber Management Guidelines for the Protection of  
25 Fish Habitat will prevent cutting to the shoreline in

1 all cases?

2 MR. WARD: A. No, it won't in all cases.  
3 And, as we've given in previous evidence, we have  
4 indicated why there isn't critical fish habitat on  
5 other lakes, those are lakes not being cold water lakes  
6 or streams, that you can allow cutting to the shoreline  
7 to occur where you do not have critical fish habitat.

8 Q. So the area of concern on other lakes  
9 where the slope is between 0 and 15 per cent is just as  
10 above for lake trout lakes, self-sustaining brook trout  
11 lakes and Aurora trout lakes; that is to say, 30  
12 metres?

13 A. If the slope is flat, yes, relatively  
14 flat.

15 Q. Yes. So there is a 30-metre area of  
16 concern and, notwithstanding that, the fish habitat  
17 guidelines and the area of concern planning process, it  
18 is still possible to have cutting to the water's edge?

19 A. For other lakes, yes.

20 Q. For other lakes, yes.

21 A. If you look at that Table 1 and you  
22 look at under harvesting operations -- or harvesting  
23 options, sorry, under Item No. 2 other lakes, you can  
24 see the harvesting options include shelterwood or  
25 limited clearcutting.

1 Q. Right.

2 A. Do not cut near critical fish  
3 habitats or roads?

4 Q. Right. And so those processes, going  
5 back to you Mr. Tenaglia, very much rely on members of  
6 the public speaking out to protect values; is that  
7 correct, the Ministry relies on the members of the  
8 public to --

9 MS. BLASTORAH: Mr. Chairman, I just  
10 rise, I hope not prematurely, because we seem to be  
11 covering ground that has been covered in past panels  
12 that really, in my mind, has nothing to do with the  
13 access issue and I am just wondering why we are going  
14 over the DLUG amendment procedure and how the fish  
15 guidelines and the tourism guidelines operate when that  
16 has been dealt with extensively in previous panels and  
17 doesn't appear to relate to any of NOTOA's issues.

18 THE CHAIRMAN: Mr. Edwards, could you  
19 answer that objection?

20 MR. EDWARDS: Yes. I am hoping to use  
21 this specific example to get to a general point which  
22 is, that the use of the timber management planning  
23 tools such as the area of concern planning process to  
24 deal with their impact on other non-timber values, in  
25 particular I hope to refer to roads, and I wish to use

1 this as an example because I think it's a good current  
2 example of an effort to change present protections and  
3 to put them into, even in designated tourism areas, and  
4 I want to ask Mr. Tenaglia about the use of other  
5 options beyond just those protections which will exist  
6 under the Timber Management Guidelines for the  
7 Protection of Tourism Values, et cetera.

8 I would like to ask him about other  
9 options, such as using road management as a strategy to  
10 protect tourism values, and I want to -- I think this  
11 indicates that there is some weaknesses in the  
12 protection available and I intend to move on to the  
13 more general point of using those tools, such as road  
14 planning, to assist in the protection of the values.

15 THE CHAIRMAN: Well, I think if you are  
16 going to relate it specifically to road planning, that  
17 may be more in keeping with what this panel is  
18 supposedly testifying about.

19 Comments on the actual process itself are  
20 probably better for Panel 15, to the extent that we are  
21 going to deal with them at all in Panel 15, and they  
22 haven't already been covered by previous panels.

23 MR. EDWARDS: One of the problems with  
24 that, Mr. Chairman, is that the tertiary roads are  
25 listed as something that Mr. Tenaglia is testifying



1 about in this panel and they are not designed to be  
2 part of the planning evidence in Panel 15, I think in  
3 part because of the fact that they are not planned in  
4 advance and that's exactly what I want to ask about.

5 THE CHAIRMAN: Okay. Well, why don't you  
6 go and move on to the questions relating to the use of  
7 roads or planning for roads in terms of trying to  
8 protect other values, if that is the point you are  
9 trying to make.

10 MR. EDWARDS: Yes.

11 MS. BLASTORAH: Mr. Chairman, just before  
12 we move on, I didn't quite catch Mr. Edwards' comment  
13 about something not being planned in advance. I just  
14 want to clarify.

15 MR. EDWARDS: My recollection, and I  
16 intend to ask Mr. Tenaglia about this, was that his  
17 evidence was to the effect that tertiary roads are not  
18 put on the map before they are built and I want to ask  
19 him about that.

20 MS. BLASTORAH: The only reason I rose  
21 was because we did hear evidence that they are included  
22 in the planning process in the sense that they are  
23 dealt with through the area of concern mechanisms.

24 I just didn't want to leave any confusion  
25 on the record to the effect that there is no planning

1 with regard to tertiary roads. They are dealt with in  
2 the planning process.

3 THE CHAIRMAN: Okay. But I think it's  
4 fair for Mr. Edwards to be able to have the opportunity  
5 of questioning Mr. Tenaglia on the use of roads in the  
6 planning process.

7 MS. BLASTORAH: Oh, I have no problem  
8 with that.

9 THE CHAIRMAN: Since he's here in this  
10 panel.

11 MS. BLASTORAH: I have no problem. I was  
12 indicating that I felt perhaps we should get into that  
13 rather than the more general matters.

14 THE CHAIRMAN: Okay.

15 MR. EDWARDS: Q. As my general question,  
16 sir: Is it fair to use the timber management planning  
17 process, including use management strategies, to  
18 protect non-timber values?

19 MR. TENAGLIA: A. Yes, it is.

20 Q. Is it fair, sir, to use the timber  
21 management planning process, including use management  
22 strategies, to protect moose herds which I think are a  
23 non-timber value?

24 A. Mr. Hogg may want to speak to that.

25 Q. Mr. Hogg, would you disagree with Mr.

1 Tenaglia's general observation that one can use the  
2 timber management planning process, including use  
3 management strategies for roads, to protect non-timber  
4 values? Would you exclude moose from the non-timber  
5 values?

6 MR. HOGG: A. I would not. Yesterday I  
7 had a like discussion with Mr. Tuer and tried to make  
8 the point that use management strategies do not have a  
9 large role in game management. Certainly the timber  
10 management planning process as it relates to habitat  
11 has a very significant role, less so use management  
12 strategies for roads.

13 Q. Thank you. But it is available?

14 A. It is there.

15 Q. It is one of the tools?

16 A. Yes.

17 Q. Mr. Tenaglia, yesterday when you  
18 testified about this special protection available for  
19 tourism values in zone 10 you indicated that certain  
20 special measures were taken to protect tourism values,  
21 particularly the use of gating. Do you recall that?

22 MR. TENAGLIA: A. Yes.

23 Q. On what -- without asking you to give  
24 us every single incident, on what types of roads were  
25 gates installed? Did it matter as to the class of

1 road?

2 A. If I recall correctly I think they  
3 were all primary roads.

4 Q. Primary roads. Were they north or  
5 south of the CN line? I mean, the area is north of the  
6 CN line, zone 10, so we are talking about roads which  
7 are entirely north of the CN line?

8 A. No, they were roads heading into that  
9 general direction.

10 Q. I see. And they were ...?

11 A. That were, again if I recall  
12 correctly, that were not built yet but had been  
13 proposed in the operating plan.

14 Q. I see. And it was identified that  
15 there would be gates on those roads when they were  
16 constructed?

17 A. That's right.

18 Q. And was one of the reasons for doing  
19 that the theory that it's easier to close a road in the  
20 first instance rather than to impose a closure after  
21 the road has been opened for a period of time?

22 A. Yes, I would agree with that.

23 Q. Sir, what other management tools  
24 would have been available to eliminate the necessity  
25 for gates; can you think of any?



1 A. Management tools for the protection  
2 of...?

3 Q. Tourism values.

4 A. In zone 10?

5 Q. Yes.

6 A. There is a lot of techniques can be  
7 used. Certainly the use of skyline reserves around  
8 outpost camps or main base lodge camps, control of  
9 season of operations -- the harvesting operations,  
10 seasonal controls, the controls of use of the roads in  
11 terms of when or a period, the time which the roads can  
12 be used not -- no heavy traffic say during the heaviest  
13 tourism time of the season.

14 Q. Sir, one of the problems that occurs  
15 when roads are signed or gated is that there is  
16 potential user conflict; correct?

17 A. Yes.

18 Q. Some members of the public or publics  
19 would want to use the road and finding a gate would not  
20 make their day?

21 A. That is always the case.

22 THE CHAIRMAN: Isn't that the case, Mr.  
23 Edwards, with any type of restriction?

24 MR. EDWARDS: That's a very good point,  
25 Mr. Chairman. Thank you.

1 Q. Sir, is it not possible to eliminate  
2 many of these user conflicts simply by sensible road  
3 design?

4 MR. TENAGLIA: A. Not in all cases.

5 Q. In some cases?

6 A. Yes, in some cases I would agree with  
7 you.

8 Q. Is it possible to eliminate user  
9 conflicts by not pushing the road in so far?

10 A. So far to where?

11 Q. So close to areas of significant  
12 tourism interest; in other words, giving up some timber  
13 to avoid the pain of having the conflict over the use  
14 of the road?

15 A. Yes, I suppose that's right. It  
16 depends on how much you are prepared to give up or have  
17 to give up to minimize that conflict.

18 Q. And that is a theoretical management  
19 tool?

20 A. A theoretical, it may not be a  
21 practical.

22 Q. It may not be practical. How much of  
23 a buffer do you think, sir, is necessary to eliminate  
24 the need for gating or signing a road heading towards a  
25 waterbody with an outpost lodge on it?

1                   A. I don't think I could answer that.  
2       Again, decisions are made based on where the road can  
3       be constructed and based on the input that we receive  
4       from the different stakeholders.

5                   THE CHAIRMAN: Isn't that rather  
6       subjective though, Mr. Edwards? There may be a tourist  
7       operator that doesn't want any road anywhere near him  
8       and there may be another one that might say: As long  
9       as you don't come closer than a thousand metres, I am  
10      happy.

11                  MR. EDWARDS: Well, that tourist  
12      outfitter may say that and perhaps his views ought to  
13      be -- his or her views ought to be taken into account.

14                  My point, sir, is that many of the  
15      conflicts which exist could be minimized, mitigated,  
16      perhaps eliminated if the conflict over the need for  
17      timber and the rights to use the road were met by  
18      larger buffer zones and I would like to know what their  
19      view is of the types of reserves that might be  
20      necessary.

21                  THE CHAIRMAN: How do you get rid of the  
22      conflict in the sense that the timber companies want  
23      the wood and if they are prevented from having the wood  
24      because there is going to be no roads whatsoever, you  
25      may make the tourist operators happy but you are not

1 going to make the timber companies happy.

2 There is still going to be a conflict.

3 It may not be over a road, per se, but it will be over  
4 the fact that they can't access wood that they feel  
5 should be accessed while, at the same time, affording  
6 some protection to tourist values.

7 MR. EDWARDS: Mr. Chairman, I think it's  
8 a matter of degree in shades of gray. Nobody is  
9 suggesting no roads, and nobody is suggesting harvest  
10 no timber.

11 I do think it's a fair question of the  
12 witness to get his view as to what type of reserve  
13 might diminish the conflict. How much wood do you have  
14 to give up to get rid of this user conflict.  
15 I think that's a fair question, with respect.

16 MR. FREIDIN: I think he's got the  
17 answer. His answer is that it depends on the fact  
18 situation at hand and he has to find out what the input  
19 of the stakeholders is, which I would submit is  
20 consistent with the position of the Ministry which has  
21 been clear since probably Panel 1 when we talked about  
22 this very issue.

23 THE CHAIRMAN: I mean, if you are asking,  
24 Mr. Edwards, is there some general rule that is going  
25 to satisfy your concern in that regard, I would

1 suggest - unless the witnesses want to say something  
2 different - that there is no general rule, it really  
3 depends on the situation.

4 MR. EDWARDS: That's exactly what I was  
5 about to head into, Mr. Chairman. I wanted to give an  
6 example and ask with very specific facts and see if Mr.  
7 Tenaglia can respond to the specifics. As a general  
8 question, I agree, it's impossible to answer. I may...

9 MS. BLASTORAH: Mr. Chairman, I only rise  
10 because I don't know -- I think we seem to be all in  
11 agreement that it has to be decided on a case-specific  
12 basis and how a decision would be made in any  
13 particular instance, I don't really see how helpful  
14 that is to the Board to put one fact situation and say:  
15 Well, this is what we do in that case.

16 THE CHAIRMAN: Well, rather than go  
17 through the example, Mr. Edwards, could we ask the  
18 witnesses the following: Would you ever make a  
19 decision as to whatever the buffer zone would be or the  
20 reserve without attempting to get input from those who  
21 would be impacted?

22 MR. TENAGLIA: It hasn't been my  
23 experience that we would make a unilateral decision  
24 like that without fairly extensive consultation.

25 THE CHAIRMAN: And, therefore, wouldn't



1 that govern whatever would be done in a particular  
2 situation?

3 MR. EDWARDS: Mr. Chairman, I would think  
4 that if they have no idea or are unable to answer that  
5 type of question, I think they would have difficulty  
6 dealing with the specifics in the field.

7 If they are unable to speak abstractly  
8 about what they would do with a set of variables - and  
9 you can change the variables; slope, soil conditions,  
10 type of timber - I would think it would be very  
11 difficult for them to consider the request. So I think  
12 it's fair a question to put to this witness.

13 THE CHAIRMAN: But with respect, Mr.  
14 Edwards, unless I am missing something, the Ministry  
15 appears to have moved away from a straight line  
16 approach where there is a fixed reserve and is going to  
17 a more flexible approach whereby those reserves can  
18 either be increased or decreased depending on the  
19 circumstances.

20 And, accordingly, if the procedure is to  
21 try and get input so as to decide what the size of any  
22 reserve should or should not be, it really depends on  
23 what that input is and it's very difficult to talk in  
24 the abstract in the sense that there is no fixed  
25 reserve of a straight line approach that they are now

1       relying on.

2                       MR. EDWARDS:  Mr. Chairman, with respect,  
3       if I might just attempt to make this point once again.

4                       I think it is a fair question to put to a  
5       witness asking that witness how much of a buffer a  
6       designated tourism lake would need to protect it from  
7       the type of use which comes with close road access;  
8       that is to say, how far away does the road have to be  
9       before the amount of traffic to that lake, however it  
10      gets there, is so minimal that it's just really  
11      traditional use, people carrying in or walking in and  
12      that is no problem.

13                      How much of a buffer, how much of a  
14      protection does the lake need before there will be  
15      any -- there will be no impact whatsoever and at what  
16      stage, how close can you come, how close can you cut  
17      before you start having impact.

18                      THE CHAIRMAN:  So what you are saying in  
19      effect, if I understand, your position is, is that:  In  
20      your view, there should be some kind of minimum reserve  
21      and you are asking these witnesses what that minimum  
22      reserve should be.

23                      MR. EDWARDS:  I'm asking them if they  
24      have a view as to what minimum reserve would be  
25      necessary to eliminate the user conflicts.

1                   If you build a road close to a designated  
2       tourism lake you are going to have a lot of traffic to  
3       it. At some stage if the road is perhaps 500 metres,  
4       maybe a thousand metres away - I don't know what the  
5       figure is - at some stage the use by the general public  
6       is just going to be the traditional use. At some stage  
7       people are going to have to lug their boat and they're  
8       not going to go and drive to the shore as they can if  
9       the road is right there.

10                  And I'm wondering if these people can  
11       tell us, from a tourism viewpoint, what they think  
12       would be necessary to protect it, because the reason  
13       that I think that is important is that it will tend to  
14       eliminate the user conflicts.

15                  How much wood do you have to give up to  
16       start mitigating or minimizing user conflicts.

17                  MS. BLASTORAH: Well, Mr. Chairman, again  
18       I am not trying to be disruptive, but we have heard  
19       extensive evidence that these decisions have to be made  
20       on a site-specific basis. And, I mean, the wood is  
21       going to be different in every case, the lodge is going  
22       to be different in every case, the terrain is going to  
23       be different in every case.

24                  So how Mr. Edwards can ask the witness to  
25       give a minimum distance that is going to apply in all

1 cases, we have heard extensive evidence --

2 THE CHAIRMAN: Well, okay. Without going  
3 through all that evidence, let's allow the question to  
4 be put to the panel. Is there a minimum distance in  
5 accordance with Mr. Edwards' last question that you  
6 would feel appropriate--

7 MR. EDWARDS: Mr. Chairman--

8 THE CHAIRMAN: --to protect tourism  
9 values?

10 MR. EDWARDS: --could I put some  
11 conditions on that so that it's easier for the  
12 witnesses to answer.

13 THE CHAIRMAN: Okay.

14 MR. EDWARDS: Q. Sir, assume a flat --  
15 relatively flat shoreline so there is no skyline  
16 reserve condition, 0 to 15 per cent grade, good soils,  
17 jack pine timber, the usual fishery concerns; that is  
18 to say, 30 metres from the Timber Management Guidelines  
19 for the Protection of Fish Habitat.

20 To minimize the likelihood of user  
21 conflict in those circumstances, do you have any views  
22 as to how far away from the shoreline of that waterbody  
23 a road should be?

24 MR. TENAGLIA: A. That is a very simple  
25 scenario and I wish all scenarios were that simple,

1 that we don't have any other interest groups interested  
2 in roads and using those particular roads.

3 Q. Does it have a simple answer?

4 A. No, it doesn't.

5 Q. Do you have any views, sir, as to  
6 what might be appropriate in the circumstances? Have  
7 you considered that?

8 A. A primary road, a secondary road, a  
9 tertiary road?

10 Q. Any road.

11 A. Any road.

12 Q. Yes?

13 A. An outpost camp, main base lodge  
14 camp?

15 Q. Main base lodge.

16 A. A road accessible camp?

17 Q. Obviously not a road accessible camp.

18 A. That particular operation may want --  
19 he may have some particular interest in having a road  
20 near his camp. We have to take that into  
21 consideration.

22 Q. Sir, have you ever considered what I  
23 am suggesting as a possible management option; that is  
24 to say, staying further away from tourism lakes to  
25 manage the user conflict?



1                   A. Yes we have, and we also have  
2                   considered putting the road closer to the lake if we  
3                   have to for operational reasons and minimizing the  
4                   potential conflicts by using signs or gates.

5                   Q. All right. If you have considered  
6                   that possible option, whatever your answer might be to  
7                   that question, do you think it should be used from time  
8                   to time?

9                   A. If we don't use other mitigating  
10                  measures, sure, keeping the road further away from the  
11                  lake will minimize that potential impact or the  
12                  potential access to the lake.

13                  MR. WARD: A. One of the problems, Mr.  
14                  Edwards, with trying to come up with a certain distance  
15                  to make it difficult for people for accessing the lake,  
16                  which is your question, is that most lakes have inlets  
17                  and outlets and roads have to cross them and you will  
18                  find that a lot of access points are on those creeks,  
19                  either the outlet or the inlet of the lake. So you can  
20                  have, you know, a half a mile reserve on it, but they  
21                  can still get access to that lake because the road has  
22                  to cross the creek somewhere.

23                  And the other thing is that technology is  
24                  changing all the time. People now have these  
25                  all-terrain vehicles that can pull in boats, where

1 before you maybe figured that a certain amount of  
2 timber would restrict -- make it difficult for people  
3 to get in there and you would only get the real ardent  
4 angler to access a lake. Now, almost anybody with a  
5 four-wheeled ATV can get into a lake.

6 So it's very difficult to come up with a  
7 certain amount of timber that you need to prevent  
8 access to a lake and that is because of changing  
9 technology and because of the topography of the  
10 situation and that is why a lot of these things have to  
11 be on a site-by-site decision.

12 Q. Is it a management tool which can  
13 assist in certain circumstances?

14 A. I think there is -- it is a  
15 management tool and I think in places like in the Lac  
16 Seul Timber Management Plan we have no roads I think  
17 within 600 metres of the lake, or if there is a  
18 tertiary road within it, it goes through a trap -- a  
19 natural trap, like a wetland or something or across a  
20 creek where you can remove a culvert so that there  
21 isn't any permanent road in place once the timber  
22 harvesting and renewal operations are over.

23 So we do have that and there are examples  
24 in timber management plans where we have talked about  
25 access restrictions that way and I am sure there are

1 other examples the panel can think of as well.

2 Q. Mr. Tenaglia, is it your evidence,  
3 sir, that the area of concern planning process,  
4 particularly as it relates to roads, would protect  
5 potential tourism resources?

6 MR. TENAGLIA: A. If the potential --  
7 yes, if they are identified.

8 Q. So it would not be necessary to have  
9 an actual existing outpost or main base lodge on a  
10 waterbody for that waterbody to be considered in the  
11 area of concern planning process?

12 A. Yes, that is possible. Again, it  
13 depends on any other user's interests. There may be a  
14 strong interest in accessing those lakes if outpost  
15 camps are not established on those lakes.

16 MR. PYZER: A. Just one minute, Mr.  
17 Edwards. If I might as well, that's the reason for  
18 Ministry of Tourism and Recreation representative  
19 sitting on all of the timber management plans that we  
20 are doing in areas with tourism, both to identify  
21 existing tourism values, but one of their key roles is  
22 to identify those potentials.

23 Q. So to get this very straight, it's  
24 not necessary to have the lake identified in the  
25 district land use guidelines for it to be considered in

1 the area of concern planning process?

2 A. That's correct.

3 Q. Thank you. Asking a bit more  
4 specific version of a question I put, I believe Mr.  
5 Hogg responded to it earlier. The use management  
6 strategy of a road can be used to protect a moose herd;  
7 is that correct, Mr. Hogg?

8 MR. HOGG: A. I think to use some words  
9 Mr. Tenaglia used, theoretically but not practically.  
10 We don't see a use management strategy as being  
11 particularly effective at determining the number of  
12 moose killed in a wildlife management unit, so we don't  
13 manage on that basis, we don't manage by manipulating  
14 the use of roads to meet our provincial objectives.

15 Q. When a road or a new road is pushed  
16 into an area and cutting commences, would you agree  
17 with me that the existing moose herd in that immediate  
18 area may be exposed to a very high hunting pressure and  
19 resulting significant kill?

20 A. I would agree that they are more  
21 vulnerable, in that improved access mean more people in  
22 that specific local area and you can expect a higher  
23 kill in a local area.

24 Q. Once the cover is removed they are  
25 exposed and they are easy game for the first year or

1 two?

2 A. That traditionally has been the case.  
3 But to make the point again, we don't manage moose at  
4 the end of the road, we manage across an entire  
5 wildlife management unit.

6 And so the fact that there is a locally  
7 heavy harvest of moose occurring in one locale within  
8 that larger unit in the general case, and it's our  
9 experience that in other parts of that wildlife  
10 management unit access is decreasing, in the sense of  
11 roads are going in, habitat is growing, moose cover is  
12 increasing, so that the kill of moose in those other  
13 locales is declining, so overall there is a balance of  
14 a sort there and we assess the success of our moose  
15 management again at the wildlife management unit level.  
16 We drew population inventories at that level, we  
17 manipulate the number of moose tags issued at that  
18 level and we don't issue them for a small area within  
19 the unit, we don't issue them in an area at the end of  
20 the road.

21 Q. Sir, are you suggesting that on an  
22 annual basis the number of roads going out of  
23 commission would equal the number of roads going into  
24 commission?

25 A. I can't obviously say that in a



1 specific way, but let others on the panel speak to what  
2 happens after renewal efforts and the forest is growing  
3 and the tertiary roads are no longer as passable as  
4 they were, that is the scenario I am trying to  
5 describe.

6 Q. You are describing a scenario of some  
7 roads going out of commission and some new roads being  
8 built. But surely you would agree that throughout a  
9 particular management unit the total number of  
10 kilometres of road would be increasing annually?

11 A. Over time you would expect more roads  
12 to be appearing in a unit, yes.

13 Q. Now, the wildlife management unit may  
14 involve many forest management units; is that correct?

15 A. That's correct, several anyway.

16 MR. EDWARDS: If I might just have a  
17 moment please, Mr. Chairman.

18 Q. Mr. Hogg, would it be your evidence  
19 that the effects of road access on wildlife -- I  
20 understand that you testified that the effects of road  
21 access on wildlife habitat would be small, but the  
22 subsequent harvest operation obviously is a major  
23 impact on the habitat. I trust you agree with that?

24 MR. HOGG: A. Yes.

25 Q. Now, when that habitat is impacted,

1 will there be a major impact on the moose population in  
2 the immediate area of the cutting in the year  
3 following?

4 A. Are you speaking in terms of habitat  
5 now or perhaps the hunting side of it?

6 Q. I'm speaking in terms of the number  
7 of moose that are going to be around for whatever  
8 reason the following year.

9 A. Well, taking hunting into  
10 consideration, moose in that scenario of a harvested  
11 forest, are going to be more vulnerable to hunting.

12 I think we acknowledge that and there's  
13 some papers written about it, and so we can expect some  
14 kind of decline in the years following cutting,  
15 immediately following cutting. We are looking over the  
16 longer term obviously at an improvement in the moose  
17 population because, as Dr. Euler went on at some length  
18 about it in Panel 10, moose are an animal of the  
19 disturbance forest, they need that disturbance to  
20 produce young vegetation, to produce the kind of  
21 habitat that they are best suited to. So harvest in  
22 the medium and long term will have a positive effect on  
23 a moose population.

24 Q. Do you agree that in certain  
25 circumstances, to reduce hunting pressure, measures may

1 need to be taken to limit vehicle use on access roads?

2 A. No, I think my evidence has been and  
3 it's the Ministry position that a road -- road use, per  
4 se, is not the means of which we manage moose harvest  
5 in the province. We use the tag system and not road  
6 closures.

7 Q. Would you agree with the statement in  
8 the Timber Management Guidelines for the Protection  
9 of -- pardon me, for the Provision of Moose Habitat,  
10 with the following statement at page (ii), the green  
11 summary:

12 "If it is desirable in special  
13 circumstances to reduce hunting pressure,  
14 one may carefully consider access road  
15 location and measures to limit vehicle  
16 use (eg. winter extraction, the  
17 signing of roads or the scarification and  
18 removal of roads after timber  
19 operations)."

20 Do you agree with that proposition from  
21 these timber management guidelines?

22 A. Certainly those words are there, but  
23 those words are meant to address those situations where  
24 there is a conflict, an obvious conflict such as a  
25 native interest or perhaps a tourism interest, the kind

1 of interest your clients might have.

2 Q. Ah, thank you. So would you agree  
3 that the interest of native persons or the interest of  
4 existing tourism businesses in an area may constitute  
5 special circumstances?

6 A. Yes, it could.

7 Q. Thank you.

8 MR. EDWARDS: Mr. Chairman, would you  
9 consider a 10-minute break at this juncture?

10 THE CHAIRMAN: Why don't we take the  
11 morning break at this point, if that's okay. We will  
12 take 20 minutes.

13 Thank you.

14 MR. EDWARDS: Thank you.

15 ---Recess taken at 9:45 a.m.

16 ---On resuming at 10:15 a.m.

17 THE CHAIRMAN: Thank you. Be seated,  
18 please.

19 MR. EDWARDS: Mr. Chairman, during the  
20 break I had copies of that map and additional copies of  
21 the exhibit -- the letter of June, 1989 made, and I  
22 have given the original map to Dr. Quinney for a few  
23 minutes. He is about to retrace the pink and red lines  
24 onto his copy and then I would file the original as the  
25 original exhibit.

1 THE CHAIRMAN: Okay.

2 MR. EDWARDS: Q. Just a couple of  
3 further questions, Mr. Tenaglia, relating to use  
4 management strategy with respect to roads, particularly  
5 in the Wawa District. Is it permissible to use road  
6 restrictions as a tool in moose management in the Wawa  
7 District?

8 MR. TENAGLIA: A. We have used road  
9 restrictions to minimize the conflict between road  
10 hunters and the remote-based operations.

11 Q. However, is it possible to use them  
12 in special circumstances to reduce hunting pressure in  
13 the Wawa District?

14 A. Well, I believe Mr. Hogg spoke to  
15 that and it would apply in Wawa District in special  
16 circumstances.

17 Q. I see. So if you and I had been at a  
18 meeting on August 10th of this year where it was stated  
19 that road restrictions are not to be construed as a  
20 tool in moose management in the Wawa District, that  
21 would not be a correct statement?

22 MS. BLASTORAH: Mr. Chairman, we have  
23 already heard from Mr. Hogg a number of times that  
24 there's a distinction between using roads as moose  
25 management and using roads for tools in protecting



1 moose herds. And so I think we have heard that a  
2 number of times already this morning, as well as the  
3 evidence of Dr. Euler.

4 THE CHAIRMAN: Well, we've heard that,  
5 but we've also heard from Mr. Tenaglia that, in his  
6 opinion, you can use road restrictions to minimize the  
7 conflict between various users.

8 MS. BLASTORAH: Mr. Chairman, exactly.  
9 My only point was that what Mr. Edwards has just asked  
10 Mr. Tenaglia, he has stated it as using roads for moose  
11 management, and that was not the response of either Mr.  
12 Hogg or Mr. Tenaglia. They made that distinction that  
13 I just made between moose management and using it for  
14 other purposes in relation to moose.

15 MR. EDWARDS: With respect, I believe  
16 there is a matter which needs to be clarified here and  
17 I would like to pursue this a bit further.

18 THE CHAIRMAN: Very well.

19 MR. EDWARDS: Q. Mr. Tenaglia, I trust  
20 that you agree with the page in the Guidelines for the  
21 Provision of Moose Habitat which states that:

22 "In special circumstances, to reduce  
23 hunting pressure one may carefully  
24 consider access road location and  
25 measures to limit vehicle use (eg.

1 winter extraction, the signing of roads  
2 or the scarification and removal of  
3 roads after timber operations)."  
4 Is that correct?  
5 MS. BLASTORAH: Do you have copy of that  
6 exhibit?  
7 MR. TENAGLIA: Yes.  
8 MR. EDWARDS: Q. Would you agree with  
9 that--  
10 MR. TENAGLIA: A. Yes, I would agree.  
11 Q. --statement from the moose  
12 guidelines? Is the signing of a road a restriction on  
13 the road?  
14 A. Yes, it is.  
15 Q. And is it permissible as a result of  
16 this document, the moose guidelines, to use road  
17 restrictions as a tool in moose management?  
18 A. Yes, it is.  
19 Q. So if it was stated at that meeting  
20 that that was not possible, that would not be correct?  
21 A. I'd have to check those minutes again  
22 to see how it was stated.  
23 MR. HOGG: A. Mr. Edwards, I wonder if I  
24 might jump back into the fray here for a second to  
25 clarify something I think has been confused here a

1        little bit and; that is, that we do not see the  
2        manipulation of roads as a game management strategy.  
3        It's a use management strategy, it reduces conflict  
4        between users and that's the way we see road  
5        restrictions being put in place.

6                   As a game management strategy,  
7       manipulation of roads tends to be ineffective because  
8       you can close a road, you can put a gate on it, perhaps  
9       you may not even put it there in the first place, but  
10      people will still continue to hunt in the area.  They  
11      make their way to that area by whatever means they can,  
12      by canoe, by walking or whatever ways.  The hunt  
13      continues no matter what has happened to the road.

14                   So that is what has led us to what we  
15       have called the selective harvest system in the  
16       province and this idea of determining the appropriate  
17       number of bull and cow tags to allocate to an area  
18       thereby limiting the kill of moose in that area.

19                   So in reading the moose guidelines in the  
20       section we have talked of, and it talks about hunting  
21       pressure, that section in my mind refers to the  
22       situation of conflict amongst users and recognition the  
23       that there is obviously a link between the number of  
24       people in an area and perhaps the number of animals  
25       that are going to be shot, but this section is really

1 meant to address that one of conflict amongst users and  
2 the idea that appropriate use management strategies  
3 should be implemented where those conflicts arise.

4 Does that help or does that confuse  
5 things more?

6 Q. I think that helps somewhat, Mr.  
7 Hogg, but you're not taking back your previous  
8 statement that in special circumstances the moose  
9 management strategy can be used to reduce hunting  
10 pressure, special circumstances such as concerns of  
11 native persons or the concerns of tourist outfitters?

12 A. If we can agree that hunting pressure  
13 equates with that conflict in the instance we are  
14 talking about here as opposed to moose management.

15 MR. TENAGLIA: A. And on that note I  
16 would have to agree with those minutes where the unit  
17 forester stated that the road restrictions are not to  
18 be construed as a tool in moose management and it goes  
19 on to say that:

20 "...and in fact in Wawa District we have  
21 used extensive use of signs and gates to  
22 reduce the conflict of road hunters and  
23 tourist operations."

24 Q. But nobody on this panel --

25 A. And I guess the benefits of those use

1 restrictions -- the indirect benefit is to the moose  
2 herd.

3 Q. Right. So nobody on the panel is  
4 withdrawing from the provision -- the position that one  
5 may use that to reduce hunting pressure; you still  
6 agree with that?

7 MR. HOGG: A. If we can all agree that  
8 hunting pressure equates with this idea of conflict  
9 amongst users.

10 Q. I'm certain it does, but would you  
11 agree that you may use it to reduce hunting pressure?

12 MS. BLASTORAH: Mr. Chairman --

13 THE CHAIRMAN: As opposed to a tool for  
14 moose management?

15 MR. HOGG: Yes, Mr. Chairman.

16 MR. EDWARDS: It may be a distinction  
17 without a difference, but I think the point is that it  
18 can be used for -- the point is well made and I will  
19 move on.

20 Q. Mr. Tenaglia, just dealing with the  
21 issue of gates, you gave some of your experience in the  
22 Nipigon District with the imposition of gates.

23 Would you agree with me, sir, that gates  
24 and the closure of roads are not the first and  
25 preferred option of tourist outfitters who will hope to



1 protect their businesses?

2 Would you agree with me that they would  
3 prefer that some other management strategy could be  
4 devised to protect their businesses which did not  
5 involve restricting public access?

6 MR. TENAGLIA: A. Yes, I would agree  
7 with you and I certainly have heard members of NOTOA  
8 indicate to me that their preference is to eliminate  
9 gates and just use signs.

10 Q. Have you also heard it suggested that  
11 they would prefer other use management strategies  
12 besides road restriction?

13 A. Such as no cutting?

14 Q. Such as larger buffer zones?

15 A. Oh, I've always heard that, yes.

16 Q. And that's the preferred option. The  
17 restriction of the public is a secondary position; is  
18 it not?

19 A. Can you repeat your question? How's  
20 that?

21 Q. The preferred option, in your  
22 experience, from the tourist outfitters' point of view  
23 has been to have sufficiently decent buffer zones that  
24 the conflict is minimized or neutralized; would you  
25 agree with that?

1                   A. No, I think that philosophy or that  
2                   thinking is changing. I think a lot of members of  
3                   NOTOA are starting to think: Well, they are not the  
4                   only users of the forest and they have to work with the  
5                   forest industry, and that's certainly the position of  
6                   some of the outfitters in Wawa District, that with  
7                   proper forest management, with proper controls that  
8                   both industries can survive.

9                   Q. But would you agree that the position  
10                  of accepting or advocating gates and signs is one which  
11                  has been adopted reluctantly by the tourist outfitters  
12                  you've dealt with?

13                  Mr. Pyzer, would you agree with that,  
14                  sir?

15                  MR. PYZER: A. Yes, I would.

16                  Q. Now --

17                  MR. FREIDIN: Mr. Chairman, just for my  
18                  clarification, when we're talking about buffer in this  
19                  case I assume we're talking about the distance from the  
20                  road to the lake.

21                  THE CHAIRMAN: Reserves.

22                  MR. EDWARDS: Mr. Freidin has put it more  
23                  eloquently than I could, he has hit the nail on the  
24                  head.

25                  MR. FREIDIN: I just want to make sure

1 that's what we're talking about, because that word has  
2 been used in many contexts and I just wanted to  
3 understand. Thank you.

4 MR. TENAGLIA: So, Mr. Edwards, your  
5 interpretation of buffer is a no harvest around a lake,  
6 or just a restriction on how close the road can go to a  
7 lake?

8 MR. EDWARDS: Q. The question was --

9 MR. TENAGLIA: A. For example --

10 Q. The question, sir, was put in the  
11 sense of how close the road could go to the lake.

12 A. And can there be any harvesting from  
13 the road -- between the road and the lake?

14 Q. Have you heard that position from  
15 tourist outfitters, sir, that they have no objection --

16 A. No, I just want to try to clarify, as  
17 Mr. Freidin was trying to clarify, the interpretation  
18 of a buffer. Is the buffer no harvesting or no roads  
19 and no harvesting around a lake?

20 Q. In particular circumstances, either.  
21 So does that affect the answer in any way, sir?

22 A. No.

23 Q. Now, no less a person than Dr. Osborn  
24 told us that the same amount of wood fiber could be  
25 produced on a smaller land base than used at present -

1 I believe I'm not misquoting him - that is to say, with  
2 the advances in forestry and silviculture one may  
3 indeed be able in future to produce more fiber per  
4 acre.

5 Does that, Mr. Tenaglia, strike you as  
6 any sort of reason to pursue a use management strategy  
7 which uses buffers or reserves, whatever you wish to  
8 call them, and de-emphasizes gates and signing?

9 MR. TENAGLIA: A. That depends on the  
10 land base that you're working with and how productive  
11 that land base is. The principle is sound, with more  
12 intensive forest management you can supply the industry  
13 with the same amount of wood on a smaller land base  
14 through intensive forest management.

15 Q. Thank you.

16 A. But on a per unit basis one would  
17 have to look at the specific sites and see whether you  
18 can work and increase or maintain that level of  
19 productivity on a smaller land base.

20 Q. Mr. Tenaglia, if I may switch to a  
21 different area. I know your explanation of the timber  
22 management planning process took into account that most  
23 of the planning discussion would be with respect to  
24 Panel 15 and you gave more or less a brief outline in  
25 your evidence-in-chief, nevertheless, I would like to

1 ask you a few specific questions which I think properly  
2 arise out of your evidence-in-chief.

3 Is there any reason that representatives  
4 of other industries or in particular interest to my  
5 client; that is to say, the tourist industry, cannot be  
6 on the timber management planning team?

7 A. I think that's a question for Panel  
8 15.

9 Q. Well, I guess I'll ask it in Panel  
10 15, I certainly intend to. Why is the role of the MTR  
11 only advisory?

12 A. Again, I think that's a question for  
13 Panel 15, but I think Mr. Pyzer wants to speak of that.

14 MR. PYZER: A. Clearly it's Ministry of  
15 Natural Resources timber management plan that's being  
16 prepared and the reason for that was - and there were  
17 some discussions certainly at the Deputy Minister  
18 level - is that -- and it was that whole question of:  
19 If one person doesn't agree, what are the mechanisms  
20 of -- could that stop the entire timber management  
21 planning process, and if he's not an advisor, the same  
22 as all other people on the planning team.

23 Clearly there can only be one  
24 decision-maker and that is the district manager or the  
25 regional director or the director of timber sales, and



1 so from the perspective of all team members being  
2 advisors, as opposed to having two decision-makers,  
3 that was the reason for that.

4 Clearly if there was a difference of  
5 opinion between the Ministry of Tourism and Rec person  
6 and the Ministry of Natural Resources, that would go  
7 through the normal channels and that would be a  
8 deputy-to-deputy or minister-to-minister discussion,  
9 but it reflects the point that there can only be one  
10 decision-maker, you can't have two decision-makers.

11 Q. Any other reasons, sir?

12 A. None that I'm aware of.

13 Q. Is it your experience, Mr. Tenaglia,  
14 that the MTR representative has the time and ability to  
15 show up to attend at timber management planning  
16 meetings, keeping in mind, as I understand it, that  
17 they are -- an individual MTR rep may be responsible  
18 for quite a number of plans, perhaps 10 to 12?

19 MR. TENAGLIA: A. In the planning  
20 process in Wawa District it's my experience that they  
21 have not had the time.

22 Q. With respect to Mr. Payne, who is the  
23 MTR representative on the Magpie Timber Management  
24 Plan, do you have any recollection as to how many  
25 meetings Mr. Payne attended?

1 A. Could you repeat the question, sorry?

2 Q. With respect to the Magpie Timber  
3 Management Plan, which has almost just been approved in  
4 your district, how often did Mr. Payne attend? He was  
5 the MTR rep.

6 A. He didn't attend any planning  
7 meetings. He was kept advised through the minutes of  
8 the meetings of what was taking place and he indicated  
9 to me, verbally anyway, that he was satisfied with the  
10 communications that were maintained.

11 Q. I see.

12 THE CHAIRMAN: Mr. Tenaglia, we realize  
13 that this is getting into an area of Panel 15, but we  
14 are prepared to let you go with a few of these  
15 questions, Mr. Edwards, on the basis that you are  
16 dealing with specific examples within the district that  
17 this particular witness might be familiar with.

18 MR. EDWARDS: That's exactly why I raised  
19 it, Mr. Chairman. I'm just about to move on to  
20 tertiary roads which I think are centrally part of  
21 Panel 14, at least according to the colourful chart I  
22 have reviewed.

23 THE CHAIRMAN: Just one last question  
24 based on the last two or three questions.

25 Regardless of whether somebody from MTR

1 shows up, is it your position that they are all  
2 properly notified, they all have the opportunity and  
3 right to show up and take an active part in the  
4 management process -- in the planning process, and if  
5 for some other reason they choose not to, whether it is  
6 the pressures of other work or for some reason they are  
7 satisfied just looking at written documentation instead  
8 of showing up at the meetings, that doesn't in any way,  
9 in your opinion, restrict their ability to do so if  
10 they so wanted to?

11 MR. TENAGLIA: That's correct.

12 THE CHAIRMAN: And that goes for any  
13 other members of the planning team; is that correct?

14 MR. TENAGLIA: That's correct.

15 THE CHAIRMAN: Is there any mandatory  
16 requirement that these various members, other than ones  
17 from your own Ministry, show up?

18 MR. TENAGLIA: No, there is no mandatory  
19 requirement. We certainly may put out a verbal request  
20 if there is a specific issue that we require their  
21 expertise for to attend to address a specific issue,  
22 but there is no mandatory requirement.

23 THE CHAIRMAN: Again, this is slightly  
24 off topic but you may know the answer. Are you aware  
25 if there has been any directives from the ministerial

1 level regarding the participation of other Ministry  
2 personnel in these plans -- in the planning process,  
3 the timber management planning process?

4 MR. TENAGLIA: I'm not aware of any.

5 MR. PYZER: If I understand the question,  
6 ministerial directive to other than Ministry of Tourism  
7 and Rec?

8 THE CHAIRMAN: In other words, if there  
9 were a directive from, say, the Minister of Tourism to  
10 his department, his ministry saying: I expect members  
11 of the Ministry, the applicable members of the Ministry  
12 to attend and take an active part in the timber  
13 management planning process--

14 MR. PYZER: Yes.

15 THE CHAIRMAN: --presumably there would  
16 be participation by those relevant members?

17 MR. PYZER: Yes, I'm fairly certain that  
18 has occurred, if not at the Deputy Minister level  
19 certainly at the executive coordinator level at main  
20 office.

21 And the reason that I believe that's  
22 occurred is that I have seen the correspondence from  
23 the next level below that to the regional directors  
24 indicating: Here are the people that I have appointed  
25 in your region and in the various districts that will

1 be attending, and here are the people you should  
2 contact for the various management units.

3 And, in fact, for the northwest region  
4 that I'm most familiar with, we have a list from  
5 Ministry of Tourism and Rec identifying for each  
6 management plan the Ministry of Tourism and Recreation  
7 consultant responsible for it.

8 THE CHAIRMAN: So it is not necessarily  
9 up to the individual--

10 MR. PYZER: Oh, it's not up the  
11 individual.

12 THE CHAIRMAN: --as to whether or not  
13 they can find the time to attend these things?

14 MR. PYZER: Absolutely.

15 THE CHAIRMAN: They are basically under  
16 an obligation, in your opinion, from their own Ministry  
17 to take part?

18 MR. PYZER: Absolutely.

19 THE CHAIRMAN: Okay. Thank you.

20 MR. EDWARDS: Q. Just one question  
21 arising out of the Chairman's question, Mr. Tenaglia.  
22 Is it your understanding, sir, that the role of the MTR  
23 representative is to assist in identifying tourism  
24 concerns?

25 MR. TENAGLIA: A. Yes, it is. And I



1 believe certainly in the Magpie Forest that was  
2 identified in terms of reference for the planning team.

3 Q. Mr. Tenaglia, if I could turn, sir,  
4 to your evidence respecting tertiary roads. If you  
5 would like me to I can refer you to specific pages, but  
6 I just intend to put it in this fashion.

7 I believe your evidence to have been it  
8 was not possible to identify the specific location of  
9 tertiary roads in advance. Do you recall that, or  
10 would you care to have me cite the page to you?

11 It's at page 19758, if you care to review  
12 that. Do you have the transcript?

13 A. Yes. One second, please

14 Q. 19758 of Volume 118. If I can direct  
15 you to the question at line 5, sir, of page 19758. Do  
16 you recall being asked this question and giving this  
17 answer:

18 "Q. Why are the locations of tertiary  
19 access roads not identified in the timber  
20 management plan?

21 A. Well, tertiary roads are built for a  
22 very short-term use. Again, as I  
23 mentioned, one to five years with the  
24 main objective of providing access for  
25 the given year's harvest and

1 subsequent -- and possibly subsequent  
2 renewal activities. They are  
3 built immediately prior to the harvest  
4 in the specific location and density of  
5 the tertiary road is influenced by  
6 the harvesting system and the terrain.  
7 It's not practical to identify the  
8 specific location of tertiary roads in  
9 advance nor is it necessary."

10 Do you recall that answer?

11 MR. TENAGLIA: A. Yes, I do.

12 Q. Sir, with respect to identifying in  
13 advance, is it possible to generally locate tertiary  
14 roads on a planning map so that people looking at the  
15 map can obtain some understanding of where they are  
16 going to go?

17 A. During the five-year planning  
18 process?

19 Q. During the five year...

20 A. The five-year term?

21 Q. Five-year term, yes.

22 A. No. As I indicated, it's not very  
23 practical and it's almost impossible.

24 Q. Why is that, even in a general sense?

25 A. It's a physical thing of trying to

1 determine where that road can go. It's the  
2 site-specific problems of where that tractor can put --  
3 can put their blade down so a truck can go in there and  
4 haul the wood out. It's a function of the kind of  
5 harvesting equipment that you have.

6 MR. PYZER: A. Mr. Edwards, sorry, just  
7 to interrupt too because I heard your question somewhat  
8 differently.

9 In a general sense -- I would say in a  
10 general sense you do know where they would be insofar  
11 as you know where they won't be. And if you know where  
12 they won't be because of restrictions and protection of  
13 other values and whatever, all of that area within  
14 which there are no concerns.

15 So from a general perspective I would say  
16 you do know where they are going to be, they are going  
17 be in those areas where there were no areas of concern  
18 and where there were no other values and where they are  
19 not restricted.

20 So from that perspective I would have  
21 said, yes, in a general sense you do know where they  
22 will be.

23 Q. In a general sense then is it not  
24 possible to so indicate on a map?

25 A. Well, then I would say no.

1 Q. Why is that?

2 A. And I will let Mr. Tenaglia...

3 Q. Why is it not possible to indicate  
4 them in the annual work plan?

5 MR. TENAGLIA: A. Again, as I indicated  
6 in my direct evidence, it's really a function of the  
7 operator, the tractor driver, the foreman, the cut  
8 foreman who is going to be able to determine where the  
9 tertiary road is going to be located; that is again,  
10 with the exception of in areas of concern.

11 Q. Sir, sometimes tertiary roads can be  
12 quite lengthy?

13 A. How lengthy is lengthy -- quite  
14 lengthy?

15 Q. Several kilometres.

16 A. It's possible.

17 Q. Yes. So is it not possible, in a  
18 general sense, on an annual work plan at least to  
19 indicate where the road is likely to go?

20 A. No.

21 Q. In your view does that have an impact  
22 on the ability of the public to comment intelligently  
23 about the implications of the timber management plan or  
24 the annual work plan?

25 A. Well, the public will comment on the

1 areas of concern and any protection those areas of  
2 concern should be afforded and we do address any  
3 requirements of tertiary roads in the areas of concern.

4 Q. So it's your evidence today that it  
5 is absolutely impossible to indicate, even in a general  
6 sense, on an annual basis where the tertiary roads will  
7 go?

8 MS. BLASTORAH: Mr. Chairman, he said  
9 that about six times now.

10 MR. EDWARDS: I take that to be yes.

11 Q. Your Exhibit 694, where you drew in  
12 the tertiary roads, we see the location of the tertiary  
13 roads only after they are on the ground; is that  
14 correct?

15 MR. TENAGLIA: A. Correct.

16 Q. And is it your theory that the  
17 tertiary roads are not significant?

18 A. In areas of normal operations. They  
19 can be very significant in areas of concern.

20 Q. They can be very significant; is that  
21 your answer?

22 A. In areas of concern.

23 THE CHAIRMAN: Is not it a chicken and  
24 egg argument or proposition, Mr. Edwards? The public  
25 is given an opportunity to identify areas of concern



1 and if they have identified areas of concern then, as I  
2 understand the evidence, tertiary roads or the proposed  
3 location for tertiary roads will be laid out to take  
4 into account those areas of concern.

5 If the public doesn't identify areas of  
6 concern and it's a normal operating area, the tertiary  
7 road will go in as the particular operator deems it  
8 necessary, but the fact is that the public hasn't  
9 identified any areas of concern within that normal  
10 operating area.

11 And so what you are trying to say, in  
12 effect, is: If you put in the roads or you tell the  
13 public where the roads are going to be, then they might  
14 identify an area of concern, but they have had that  
15 opportunity at the front end; have they not?

16 MR. EDWARDS: Well, with respect, Mr.  
17 Chairman, I think you can have roads that are  
18 kilometres long, sometimes it's difficult to tell  
19 exactly where they are going to go and one can only do  
20 so much in a three-hour chance to review a plan and a  
21 30-day period in which to make submissions and without  
22 having the map drawn which indicates where these roads  
23 are going to go, it's my submission that it makes it  
24 very difficult for the average member of the public to  
25 make any sort of useful comment other than saying:

1 Don't go too close to my lake or don't go too close to  
2 this waterbody where I like to canoe or don't go too  
3 close to this area which has significance to me as a  
4 native person.

5 Those types of submissions can be made,  
6 but without having the map, it's the position of my  
7 client that it's very difficult to comment within the  
8 time frames that are set out.

9 MR. TENAGLIA: Mr. Edwards, certainly the  
10 public have the opportunity of reviewing where the  
11 proposed allocations are and that's generally where the  
12 tertiary roads are going to be, within the areas  
13 allocated for harvesting, and I would suspect the  
14 public will make that connection. And if they have any  
15 concerns relative to harvesting, then it would still --  
16 they would equally apply to tertiary roads.

17 THE CHAIRMAN: Isn't that really the  
18 point, Mr. Tenaglia, that if the public is concerned  
19 about roads they would first be concerned about  
20 harvesting in the first place?

21 MR. TENAGLIA: That's correct.

22 THE CHAIRMAN: Because the harvesting is  
23 going to be associated -- or sorry, the roads are going  
24 to be associated with the harvesting. So that if it's  
25 proposed that an allocation for wood harvest is going

1 to be in such and such a place, the public who would be  
2 impacted by that harvesting would surely be interested  
3 in identifying areas of concern within that allocation  
4 area to the Ministry in their attempt to, if it were a  
5 real concern, to prevent the harvesting in the first  
6 place, let alone the building of a road.

7 Would that not be the case?

8 MR. EDWARDS: Well, if I might just ask,  
9 Mr. Tenaglia.

10 Q. Sir, then there will be no  
11 indication -- in the area of concern planning process,  
12 there will be no indication whether a tertiary road is  
13 going to go to the lakeshore or not?

14 MR. TENAGLIA: A. At what stage of the  
15 planning process?

16 Q. At any stage, even in the annual work  
17 schedule?

18 A. Of course. At a particular stage in  
19 the planning process we will indicate what kind of  
20 restriction will be in that -- relative to tertiary  
21 roads, primary roads and secondary roads, what kind of  
22 restrictions will be in that area of concern.

23 Q. Well, any member of the public who  
24 views the plan at the public session will not -- will  
25 know that there is an area of concern identified, one

1 hopes that would be marked on the map; would it?

2 A. Yes. At the public information  
3 stage --

4 Q. Yes.

5 A. The second public participation  
6 stage?

7 Q. Yes.

8 A. Yes.

9 Q. The area of concern would be marked  
10 on the map, but as to what is going to happen inside  
11 that area of concern, they wouldn't be able to see it  
12 on the map, they will have to refer to the text?

13 A. At that stage of the planning  
14 process, no, it won't be. At the third stage, where  
15 the draft plan is prepared and available for public  
16 review, that is where the public will be able to view  
17 any restrictions on tertiary roads.

18 Q. And those restrictions will be  
19 contained in the text, there won't be a map which  
20 illustrates the location of the roads obviously?

21 A. That's correct.

22 Q. Now, sir, in your evidence you  
23 indicated that it wasn't anticipated that the impact of  
24 tertiary roads would be significant. Now today you  
25 have said that tertiary roads may be significant in

1 areas of concern. So to that extent you have modified  
2 your evidence-in-chief today?

3 A. No, I have not.

4 Q. Well, did you not say a few minutes  
5 ago that tertiary roads can be significant in areas of  
6 concern?

7 A. In areas of concern.

8 Q. All right. And in your  
9 evidence-in-chief did you not say that it was not  
10 anticipated that their impact will be significant?

11 A. Yes, because I guess we avoid the  
12 areas of concern and we deal with the tertiary road  
13 issues.

14 Q. Did you or did you not say that their  
15 evidence -- that it's not anticipated that their impact  
16 will be significant?

17 MR. FREIDIN: Where does it say that, Mr.  
18 Edwards?

19 MR. EDWARDS: Q. Sir, were you asked at  
20 page 19763 of the transcript --

21 MR. FREIDIN: That wasn't one of the  
22 sections you referred him to earlier.

23 MR. EDWARDS: No, I am going to refer to  
24 it right now.

25 Q. The question is at the bottom of



1 19763 and the question is merely a thank you.

2 Did you give the following answer at  
3 question 19764:

4 "As I have explained before, tertiary  
5 roads are very short term. In some cases  
6 they are surfaced, in other cases they  
7 are not surfaced. They are not  
8 maintained -- generally not maintained  
9 beyond the period of their use and, in  
10 fact, in many cases they are reforested.  
11 It's not anticipated that their impact  
12 will be significant. For these reasons  
13 we do not identify the location of the  
14 tertiary roads but, again, we plan where  
15 tertiary roads cannot go or any  
16 conditions on tertiary roads."

17 THE CHAIRMAN: No, but doesn't that deal  
18 with areas outside areas of concern?

19 MR. TENAGLIA: Yes, sir.

20 THE CHAIRMAN: And your evidence is  
21 essentially that tertiary roads will not have a major  
22 impact in a normal operating area given their nature.

23 MR. TENAGLIA: That's our submission,  
24 sir.

25 THE CHAIRMAN: But they may have a more

1 major impact if it were associated with an area of  
2 concern?

3 MR. TENAGLIA: That's right.

4 MR. EDWARDS: Q. Well, sir, as I read  
5 your evidence on the first day I didn't see any  
6 qualification that they may be significant in areas of  
7 concern. Today you do agree; do you, that they may be  
8 significant in areas of concern?

9 MR. TENAGLIA: A. I would have to check  
10 the transcripts to make sure that I didn't leave that  
11 out, that they are indeed significant in areas of  
12 concern.

13 Q. Sir, I'm talking about today. You  
14 just accept the point. Can we move on?

15 A. Yes.

16 Q. You do. Thank you.

17 Sir, your evidence with respect to  
18 primary, secondary, or tertiary geometric standards --

19 MS. BLASTORAH: Mr. Chairman, we made it  
20 clear during the evidence-in-chief that primary,  
21 secondary and tertiary do not refer to geometric  
22 standards, they are planning classifications of roads  
23 which is something different from geometric standards.

24 The only reference that was made, I  
25 believe was made by me in indicating that there was a

1 problem where primary, secondary and tertiary road --  
2 or road standards are referred to in FMA agreements and  
3 we clarified that that was particular to those  
4 agreements and the witnesses would view primary,  
5 secondary, tertiary only in reference to planning  
6 classifications not geometric standards. That was made  
7 quite clear.

8 MR. EDWARDS: With respect to Ms.  
9 Blastorah's always courteous objections, I still think  
10 the point is not clear, I find it very confusing, and I  
11 would like to ask this witness what they mean about  
12 geometric standards and what they mean about road  
13 standards because the evidence, in my view, was not  
14 clear and I would like to explore that briefly.

15 MS. BLASTORAH: I have no problem with  
16 that, Mr. Chairman. I just wanted to clarify how the  
17 terms were being used in the evidence-in-chief.

18 THE CHAIRMAN: Okay. Well, why don't you  
19 put your questions, Mr. Edwards.

20 MR. EDWARDS: Thank you.

21 Q. Sir, when you are using -- do the  
22 words primary, secondary and tertiary have two meanings  
23 on different occasions? What is the difference  
24 between a geometric standard and a road standard, if  
25 any?

1 MR. FREIDIN: Is that a separate  
2 question? Have you changed the question now, or do you  
3 want him to answer that in the context --

4 MR. EDWARDS: I just want to ask  
5 questions generally about what he means by primary,  
6 secondary and tertiary and explain the difference  
7 because it was not clear in the evidence-in-chief.

8 MR. FREIDIN: Well, there is two  
9 questions: What is primary, second and tertiary, and  
10 then: What is the difference between geometric  
11 standards. I mean, if you are asking him to answer the  
12 second question, assuming there is a difference -- I  
13 mean, I think you should ask one question at a time,  
14 Mr. Edwards.

15 MR. EDWARDS: I thought I said if any.

16 Q. Is there a difference, sir?

17 THE CHAIRMAN: Okay. Well, let's not go  
18 through the semantics. What is the difference between  
19 primary and tertiary and secondary?

20 MR. TENAGLIA: There is primary,  
21 secondary and tertiary in terms of classifications for  
22 planning processes and I believe that's addressed in  
23 Document 4.

24 There is primary and secondary geometric  
25 standards and it speaks to the parameters to which the

1 road is being built. I think Mr. Adamson may speak to  
2 geometric standards if you are interested in speaking  
3 about the parameters to which roads are being built.

4 MR. EDWARDS: Q. This is the  
5 confusion --

6 MR. TENAGLIA: A. And geometric  
7 standards are not a matter -- are not used in terms of  
8 determining the planning classification or the  
9 classification of the road.

10 Q. For geometric purposes are there just  
11 primary and secondary, or are there primary, secondary  
12 and tertiary?

13 A. There is primary, secondary -- there  
14 is primary, secondary and tertiary standards.

15 Q. Geometric standards?

16 A. Geometric standards.

17 Q. Mr. Adamson, that is your  
18 understanding; is it, sir?

19 MR. ADAMSON: A. We have three standards  
20 in the Ministry and we go by letter A, B, C and D.

21 Q. Three standards and four letters.

22 A. To make it more confusing, yes.

23 Q. That's interesting.

24 A. There are a variety of expressions  
25 used; main haul road is one, secondary road is commonly



1 used for geometry.

2 Primary and secondary roads are also used  
3 to refer to geometry and, to make it more confusing,  
4 the industry has their own geometric standards which  
5 are different than the Ministry's standards, so...

6 But all they are is -- the word geometric  
7 means that it has a certain geometry that can be  
8 defined in numbers; road width, road slope,  
9 right-of-way, a clearing width, those types of  
10 parameters that are measurable.

11 THE CHAIRMAN: It was our understanding,  
12 at least my understanding, that geometric standards  
13 weren't really an issue with tertiary roads in terms of  
14 private tertiary roads constructed by the industry?

15 MR. ADAMSON: That is quite correct.

16 THE CHAIRMAN: They were with respect to  
17 secondary and primary roads.

18 MR. ADAMSON: That's right. Quite often  
19 tertiary roads are unimproved surfaces of the natural  
20 ground.

21 MR. EDWARDS: Q. This perhaps assists my  
22 confusion. At page 781, Mr. Tenaglia, the bottom --  
23 very bottom line, do you recall being asked a question  
24 and giving the answer --

25 MS. BLASTORAH: I am sorry, what was that

1 page number?

2 MR. EDWARDS: 19781, pardon me.

3 Q. Being asked the following question  
4 and giving the following answer:

5 "Q. And just in listing in those items,  
6 Mr. Tenaglia, you indicated it would  
7 normally indicate the road standard,  
8 whether it was primary, secondary or  
9 tertiary. Did you mean the road  
10 classification for planning purposes, or  
11 did you mean the standard as set out --  
12 did you mean geometric standard? Because  
13 you using primary, secondary and tertiary  
14 but you also used the word standard?

15 A. It's the road standard that is  
16 identified.

17 Q. The geometric standard?

18 A. Yes."

19 Do you recall being asked those questions  
20 and giving those answers?

21 MR. TENAGLIA: A. Yes.

22 Q. Now --

23 MR. FREIDIN: I'm sorry, Mr. Edwards,  
24 which page are you quoting from?

25 MR. EDWARDS: 19781 and 19782, Mr.

1 Freidin, start with the very bottom of 19781.

2 MR. FREIDIN: Oh, all right.

3 MR. EDWARDS: Q. Just to get this clear,  
4 sir, do tertiary roads have geometric standards and was  
5 that evidence clear on that point?

6 MR. TENAGLIA: A. Yes, I think Mr.  
7 Adamson indicated that tertiary roads has -- a tertiary  
8 road may have a geometric standard.

9 Q. It may have. Is that correct, Mr.  
10 Adamson?

11 MR. ADAMSON: A. I think -- I don't  
12 think there is a standard for tertiary road other than  
13 a requirement to be able to haul a loaded truck of wood  
14 over it.

15 Q. So in the usual use of the word  
16 geometric standard, that would not refer to a tertiary  
17 road?

18 A. That's correct. Our lowest standard  
19 is a D and I believe a tertiary road would probably be  
20 of lower standard than that even.

21 Q. So for the planning purpose, sir,  
22 when in the planning process you are identifying  
23 primary -- I am asking the question of Mr. Tenaglia,  
24 but I will invite Mr. Adamson to help if he needs - in  
25 the planning process, sir, when the primary or

1 secondary road is identified, does that have any  
2 reference to the geometric standard to which the road  
3 will be built.

4 MR. TENAGLIA: A. When it's identified  
5 for what purpose?

6 Q. I am talking about the planning  
7 process.

8 A. No, no. The geo -- it doesn't matter  
9 what the geometric standard is.

10 Q. The important thing is the intended  
11 use and duration of use of the road; is that correct?

12 A. That's correct.

13 Q. So it is theoretically possible to  
14 have a primary road which is of a relatively lower  
15 geometric standard or you could have a super highway?

16 A. That's correct. And I think I  
17 indicated that in my direct evidence that in some cases  
18 you may have winter roads or ice roads that are  
19 secondary -- a secondary classification and you follow  
20 the planning process for a secondary road even though  
21 it has virtually no geometric standard.

22 Q. Can a tertiary road have a use  
23 management strategy?

24 A. It may have a restriction put on  
25 it -- a tertiary road in terms of planning

1 classification?

2 Q. Yes.

3 A. Or a geometric standard?

4 Q. Well, I thought we just agreed that  
5 there weren't geometric standards for tertiary roads,  
6 but I am talking about the planning process, yes.

7 A. There would be restrictions  
8 identified on tertiary roads, yes.

9 Q. And that would constitute a use  
10 management strategy for that tertiary road?

11 A. I guess it would be regarded as a use  
12 management strategy. It's a restriction on a road.

13 Q. Mr. Adamson, is it a fair summary of  
14 your evidence, sir, that -- a fair summary of what you  
15 believe at least, that the location of bridges may be a  
16 critical factor in determining overall road location.  
17 Would you agree with that proposition?

18 MR. ADAMSON: A. Yes.

19 Q. And in your evidence you indicated  
20 that there are certain sites which lend themselves more  
21 easily to bridge construction than others?

22 A. That's right. I term them favourable  
23 sites or unfavourable sites.

24 Q. And identification of favourable  
25 sites at an early stage in the planning process is



1 critical to assist in planning out the entire route of  
2 the road?

3 A. Yes, that's correct.

4 Q. The earlier the involvement of the  
5 engineer, the better in the planning process?

6 A. In terms of location of the road,  
7 that's correct. It doesn't necessarily have to be an  
8 engineer, I should mention. Generally the people in  
9 the industry responsible for bridge construction aren't  
10 professional engineers.

11 Q. Generally people...?

12 A. In the forest industry who are  
13 responsible for bridge construction and who can provide  
14 that type of input are not professional engineers.

15 Q. What types of person would ordinarily  
16 provide that type of expertise in your experience?

17 A. People that are experienced in the  
18 construction of roads and bridges and culvert type  
19 water crossings. They are quite -- through their  
20 experience they are quite qualified to determine what  
21 is a favourable site or an unfavourable site.

22 Q. I believe your evidence to have been,  
23 sir, that it was important to involve engineers and  
24 bridge construction people in decisions that select the  
25 crossing locations during the five-year planning cycle.

1 Would you agree that those people have any role in the  
2 20-year planning cycle?

3 A. I suppose they have a role, yes. If  
4 the planning decisions as to where they are going to  
5 cross a particular river are critical to that 20-year  
6 plan, then advice could be sought from them, major  
7 crossings could be checked out, that was the context.

8 Q. You gave some evidence, sir, in your  
9 technical evidence about the portable bridge which can  
10 be used and reused?

11 A. Yes.

12 Q. What is the cost of that relative --  
13 is it possible to suggest relative costs for portable  
14 bridges versus say permanent bridge installation?

15 A. Well, a portable bridge is  
16 essentially -- what is portable, what can be salvaged  
17 is the superstructure, the beams and the decking and  
18 essentially what is involved is for a temporary  
19 crossing perhaps investing more money in those  
20 components recognizing that they can be taken out when  
21 that particular need ends and they can reused somewhere  
22 else.

23 So the initial cost would be higher, but  
24 they have long-term life and they can be reused over  
25 and over.

1 Q. Is there a potential cost saving in  
2 the long run?

3 A. I believe so, yes.

4 Q. You also gave some evidence about use  
5 of logs for small bridges and log culverts I believe.  
6 When is it appropriate to use a log bridge?

7 A. Again, the use of log bridges is  
8 permitted for structures that are going to be in place  
9 for less than 10 years and that is set out in our  
10 Bridge Management Policy.

11 Q. Are there any particular  
12 environmental concerns with the use of log bridges?

13 A. I don't think there is a distinction  
14 between the log bridge and the permanent material  
15 bridge in terms of environmental concerns, no.

16 Q. Would a log bridge generally be less  
17 expensive than a culvert?

18 A. It depends on the size of water  
19 crossing being crossed. If a 4-foot diameter culvert  
20 or a 5-foot diameter culvert can do the job, it's  
21 probably more economical to use a culvert than a log  
22 bridge. If two or three 10-foot diameter culverts are  
23 needed, a log bridge may be more economical.

24 So it's site-specific, it depends on what  
25 kind of flows have to pass through the structure, the

1       longevity required, the site conditions, the soils, the  
2       foundations. So it's a site-specific decision.

3               Q. Thank you. Mr. Pyzer, sir, I just  
4       wanted to draw to your attention something you stated  
5       in your evidence-in-chief and I believe you may have  
6       inadvertently misstated something and I just wanted to  
7       give you the opportunity to review it.

8               Referring to your evidence at page  
9       20017 --

10              MR. FREIDIN: Which volume?

11              MR. EDWARDS: I'm sorry, Volume 119.

12              Q. Do you have that page, Mr. Pyzer?

13              MR. PYZER: A. 20017?

14              Q. Right.

15              A. Yes, I do.

16              Q. It is actually the continuation of  
17       your answer starting on the preceding page.

18              A. Yes.

19              Q. It talks about the benefits of the  
20       Crown Land Camping Program and I'll just read briefly,  
21       if I may. Your answer:

22                       "The only other point I would make in  
23                       terms of the evaluation would be things  
24                       that we have done like Crown land  
25                       camping programs. Again -- in fact, the

1 Crown land camping program was an  
2 initiative developed jointly between  
3 NOTOA and our Ministry and, in fact,  
4 our -- the northwest region and Kenora  
5 District were the pilot program for  
6 three years and as we went through that  
7 in terms of monitoring, and I believe we  
8 reflected that in NOTOA Interrogatory 32,  
9 the impacts of that program, I believe it  
10 was something in the order of the  
11 magnitude of 82 or 85 per cent of the  
12 tourist industry indicated a direct  
13 relationship in terms of increased  
14 business, and an improved business, and  
15 an improved business climate as a result  
16 of having put that in place."

17 Do you recall making that statement?

18 A. Yes, I do.

19 Q. Since you made that, sir, have you  
20 had the opportunity to review the actual content of the  
21 interrogatory?

22 A. No, I have not looked back at that  
23 interrogatory.

24 Q. Could you just refer to it because I  
25 think your figures were headed in the right direction



1 but perhaps you misstated them. It is NOTOA  
2 Interrogatory 32.

3 A. Yes, I have that in front of me.

4 Q. Would you agree, sir, that the survey  
5 indicated that 83 per cent had increased in experience  
6 in business in 1985 of which 55 per cent attributed the  
7 increase directly to the Crown land camping program?

8 A. That's correct.

9 Q. Now, if your evidence stated that 82  
10 to 85 per cent indicated a direct relationship in terms  
11 of increased business and improved business, would you  
12 defer to the figures in the interrogatory?

13 A. Yes, that's correct.

14 Q. Yes. Now, just further to that 55  
15 per cent, is that 55 per cent of the 83 per cent or is  
16 that 55 per cent of the 100 per cent; do you know that?

17 A. Offhand I don't know that, I'd have  
18 to check.

19 Q. But nevertheless your point would  
20 still be that a significant number of outfitters found  
21 benefit in the Crown land camping program?

22 A. That's correct, yes. In fact, I  
23 believe that's why they then asked it to be expanded to  
24 include all of northern Ontario.

25 Q. And that has now been done, I

1 understand?

2 A. That's correct.

3 THE CHAIRMAN: Mr. Edwards, I don't  
4 believe Question 32 is in front of us.

5 MR. EDWARDS: I'm sorry.

6 MS. BLASTORAH: It's part of our Exhibit  
7 No. 688, Mr. Chairman, which was the package of  
8 interrogatories we filed.

9 THE CHAIRMAN: Okay.

10 MR. EDWARDS: I thought that had been  
11 filed, Mr. Chairman.

12 MS. BLASTORAH: It was.

13 MR. EDWARDS: The significant part of  
14 the -- just for the Board's reference, the significant  
15 part is the one that I just read in which indicated  
16 that 55 per cent attributed the increase directly to  
17 Crown land camping programs and I think Mr. Pyzer  
18 inadvertently said 82 to 85 per cent.

19 MR. PYZER: Yes, it was the 83 that  
20 had -- 83 per cent had experienced an increase in  
21 business.

22 MR. EDWARDS: Right.

23 MR. PYZER: And you're right, I'm not  
24 certain if the 55 refers to 55 per cent of the 83 or 55  
25 per cent of the 100. Of course 73 per cent also

1       perceived a positive reduction in the program in terms  
2       of those other areas listed in the interrogatory.

3                   MR. EDWARDS:  Q.  Mr. Pyzer, as I  
4       understand your testimony, sir, it's that user  
5       conflicts are resolvable ones, they can be dealt with  
6       by the Ministry?

7                   MR. PYZER:  A.  Yes, that's correct.

8                   Q.  I'm talking about user conflicts over  
9       road use?

10                  A.  Yes.  Some are obviously  
11       significantly more difficult to resolve than others,  
12       but given people willing to resolve them they can be  
13       resolved.

14                  Q.  I don't know if you agreed to this  
15       proposition earlier or not, but would you agree now  
16       that it is harder to close a road after it has been  
17       used for a few years by members of the public than it  
18       is to close it in the first instance?

19                  A.  Yes, I would agree with that.

20                  Q.  And your understanding is that at  
21       present six per cent of the roads constructed for  
22       timber management purposes have some restrictions on  
23       them?

24                  A.  I believe that was the figure, yes.  
25       I certainly paged a number of districts across the

1 north in terms of the number of roads in their  
2 districts that had restrictions of one sort or another,  
3 a gate or a sign, and I'm on safe ground saying there  
4 are dozens and dozens of examples. And I think I'm on  
5 safe ground saying there are hundreds in northern  
6 Ontario.

7 Q. But of the total the figure remains,  
8 at last count, as six per cent?

9 A. Yes. I didn't put that figure  
10 together, so I don't know if that's six per cent of the  
11 mileage or six per cent of the roads or -- so I'm not  
12 certain of the context.

13 Q. Do you know who would know that, sir?

14 A. No, I don't to be honest. I'd have  
15 to find out who prepared that interrogatory.

16 MR. EDWARDS: Mr. Chairman, is that an  
17 unreasonable undertaking, to ask what that figure  
18 refers to?

19 MS. BLASTORAH: I am sorry, what is it  
20 that he's trying to determine?

21 THE CHAIRMAN: He is trying to determine  
22 who put together the answer that indicated that six per  
23 cent of the roads have some sort of restriction on  
24 them.

25 MS. BLASTORAH: My point is, I think Mr.

1 Edwards wants to know that to obtain some further  
2 information. Maybe we could just undertake to find out  
3 the information --

4 MR. EDWARDS: Specifically it's  
5 whether -- are we talking about six per cent of the  
6 kilometres or are we talking about six per cent of --  
7 if there is 100 roads are there six with use  
8 restrictions. Are we talking about kilometres or just  
9 roads?

10 THE CHAIRMAN: I guess he wants to know  
11 in what context was the number six per cent used.

12 MR. EDWARDS: How was six per cent used?

13 MS. BLASTORAH: If I understand the  
14 question, it's six per cent of the number of roads or  
15 six per cent of the total kilometre of roads?

16 MR. EDWARDS: I think the idea is right.

17 MS. BLASTORAH: Is that something we can  
18 find out?

19 MR. PYZER: Well, again, I don't know to  
20 be honest. It's fairly -- I would suspect it's a  
21 fairly significant undertaking and that you would have  
22 to go to the person who prepared the original to know  
23 what data he has, but I certainly don't know.

24 MS. BLASTORAH: Mr. Chairman, perhaps we  
25 could make some inquiries over the break and find out



1       whether we are able to provide an answer to that and we  
2       can advise the Board.

3                       MR. EDWARDS:  Thank you very much, Ms.  
4       Blastorah.

5                       THE CHAIRMAN:  Does anything turn on it,  
6       Mr. Edwards?

7                       MR. EDWARDS:  Yes, I think something  
8       does.  I think the figure is a significant one and  
9       we're very interested in finding out the answer.

10                      MS. BLASTORAH:  For what purpose, if I  
11       may ask?

12                      MR. EDWARDS:  I was just about to go into  
13       this line of questioning.  For the purpose of dealing  
14       with arguments that tourist outfitters want every road  
15       in Ontario closed and that they're a bunch of effete  
16       snobs who cater to the elite and refuse to let the  
17       average member of the public go on the roads.  It would  
18       be the view of my clients --

19                      THE CHAIRMAN:  Is that your evidence?

20                      MR. EDWARDS:  No, absolutely not.  It  
21       would be the view of my clients that the use  
22       restrictions which are in effect are not so terribly  
23       widespread as to be unreasonable and, indeed, it would  
24       be the view of my clients that further use restrictions  
25       in the appropriate circumstances should be considered.

1 THE CHAIRMAN: Well, without going into  
2 all of that, can we not sort of take notice of the fact  
3 that if the figure is six per cent, whether it is of  
4 kilometres or number of roads, it doesn't form a  
5 majority in either case?

6 MR. ADAMSON: Mr. Chairman, I have the  
7 interrogatory in front of me that that figure came  
8 from. Perhaps if I read it it would help. It says --  
9 it's in response to MOE Interrogatory No. 17 on Panel 8  
10 and the question was:

11 "In the last three years what percentage  
12 of new primary and secondary access roads  
13 have been gated?"

14 And the answer:

15 "In the last three years approximately  
16 six per cent of the primary and secondary  
17 forest access roads which have been  
18 constructed on forest management units on  
19 Crown land for timber management purposes  
20 have been closed to the general public."

21 THE CHAIRMAN: So it would appear to  
22 refer to the number of roads constructed--

23 MR. ADAMSON: That's correct.

24 THE CHAIRMAN: --as opposed to  
25 kilometres.

1 MR. ADAMSON: That's right.

2 MS. BLASTORAH: Mr. Chairman, if Mr.  
3 Edwards' concern is with regard to this allegation  
4 about his client, I don't think that allegation has  
5 been made by anybody in this hearing, so I'm not quite  
6 sure what he anticipates is going to be upcoming from  
7 the other parties, but I think the interrogatory is  
8 clear.

9 THE CHAIRMAN: Well, in any event, six  
10 per cent of the number of roads constructed is not a  
11 significant amount. I think we can take notice of  
12 that.

13 MR. EDWARDS: Right. And I note that the  
14 interrogatory asked for how many have been gated and  
15 the response dealt in terms of roads that are closed,  
16 and I just note for the record that that may mean  
17 signed as opposed to gated. It may not have been  
18 entirely responsive to the question. Was that --

19 MR. FREIDIN: That was the evidence of  
20 Mr. Pyzer. The evidence of Mr. Pyzer was closed is  
21 probably a word which is not used in the colloquial  
22 sense all the time, that closed meant there was a  
23 restriction on it, in some cases it does mean certain  
24 people could pass, and he indicated in his evidence the  
25 type of people who -- it was not uncommon by allowing

1       them to use those roads in terms of resource  
2       harvesters, et cetera.

3                   MR. ADAMSON: This point was clarified in  
4       the interrogatory. If I can continue that same  
5       paragraph, it says:

6                   "Note: MNR's interpretation of your term  
7                   gated is closed to public use which  
8                   includes such measures as gating,  
9                   ditching and/or signage under the  
10          authority of the Public Lands Act."

11                  MR. EDWARDS: Thank you, that clarifies  
12       that Mr. Adamson.

13                  Q. Mr. Pyzer, is it a present policy of  
14       the MNR in approving land use permits or approving new  
15       developments for tourism to promote, for want of a  
16       better word, the more ambitious project? If there are  
17       two competing applications to put in a lodge or a camp  
18       on a lake, the MNR tends to -- or has a present policy  
19       of approving the more ambitious project?

20                  MS. BLASTORAH: Mr. Chairman, before we  
21       get into this, I would just, once again, ask what this  
22       has to do with roads.

23                  I mean, maybe if Mr. Edwards wants to  
24       pursue this in relation to some specific issue with  
25       regards to roads I may not have a problem with it, but

1       that -- what appears to be the line of questioning he  
2       is entering into seems to my mind to be a more general  
3       land use planning area that doesn't really relate to  
4       the evidence of this panel, but I may be premature.

5               MR. EDWARDS: I think I'm going to take  
6       it right back to roads in about 10 seconds, if I get an  
7       answer here.

8               Q. Is that a present policy of the MNR,  
9       sir, do you understand that to be the case?

10              MR. PYZER: A. I wouldn't say it's a  
11       policy of the Ministry. We've worked closely with  
12       Ministry of Tourism and Recreation and I wouldn't even  
13       want to say it's their policy, but it's certainly one  
14       that they have espoused that we should move closer to  
15       the -- if a lake has the potential of an outpost camp  
16       versus a main base lodge, they obviously, for social  
17       and economic benefits and terms of optimizing resources  
18       and optimizing benefits, that's a direction they would  
19       like us to go in and we generally concur with that. We  
20       agree with the benefits that flow from it.

21              Q. Would it be your view, sir, that a  
22       person who invests time and energy and funds in such an  
23       investment has a reasoned position in asking for some  
24       use restrictions on roads which come near that  
25       operation?



1 A. Is that a reasonable position for  
2 them to take?

3 Q. Yes.

4 A. Absolutely.

5 Q. Thank you. Is it your experience  
6 that the customers of tourist outfitters - and I  
7 understand you from time to time are one yourself -  
8 come from all walks of life?

9 A. I am sorry, I missed the last part.

10 Q. Come from all walks of life?

11 A. Yes, they do.

12 Q. Do you yourself regard tourist  
13 outfitters as catering only to the elite?

14 A. No, I don't believe that at all.

15 Q. Sir, you're a professional witness  
16 and earlier you gave --

17 THE CHAIRMAN: Professional in what  
18 sense?

19 MR. FREIDIN: He has been qualified...

20 THE CHAIRMAN: If he stays here long  
21 enough he may be.

22 MR. PYZER: It's the last thing I would  
23 want to be.

24 THE CHAIRMAN: I think he's an employee  
25 of MNR, I don't know if he does this for his lifetime's

1 ambition in terms of vocation.

2 MR. FREIDIN: He has to serve on five  
3 panels to do that.

4 MS. BLASTORAH: Actually it's been done.

5 MR. EDWARDS: Going to nominate them for  
6 witness of the year.

7 Q. Sir, you are a professional person,  
8 you gave testimony which was quite anecdotal in your  
9 evidence-in-chief for accounting what certain  
10 individuals had said to you with respect to road  
11 access.

12 Surely you acknowledge that you have had  
13 earfulls from outfitters who feel that road access is  
14 the major problem facing them, and there's no doubt  
15 about that position; is there?

16 MR. PYZER: A. No doubt at all. That  
17 was the point I was trying to make, is whatever  
18 argument you would like to prove, I'm sure you could  
19 pull in the appropriate tourist operators to say  
20 whatever argument you wanted to pursue, and it was very  
21 difficult to categorize as being all in support of or  
22 all in opposition to, or all walking down the middle.

23 That was the point of some of those  
24 anecdotes.

25 Q. Generally you would agree that more

1 outfitters, by far the vast majority, are concerned  
2 about the impact of road access and are not in favour  
3 of further construction?

4 A. Although, as you wanted me to say  
5 yesterday, in my district being so unique they took a  
6 different approach. So, you know, that's the dilemma  
7 of trying to get -- trying to generalize to that  
8 extent. Now you want me to say something different  
9 from -- than Kenora District.

10 As a NOTOA position, NOTOA is  
11 generally -- as an organization is -- as an  
12 organization, is opposed to access roads in terms of  
13 being wide open and they're extremely concerned about  
14 the impact of access roads on their business. That's  
15 the message they have been giving us and they've done  
16 that quite well for -- as I mentioned the other day,  
17 probably 20 years now, and I think we understand that.  
18 We've certainly heard them.

19 Q. I understand further, Mr. Pyzer, that  
20 Ms. Mogford, who is the Deputy Minister --

21 A. Was.

22 Q. Was the Deputy Minister at the time,  
23 made a directive or a commitment that the district  
24 manager would always hold an annual meeting with the  
25 tourist industry?

1 a. That's correct.

2 Q. And that came from the Deputy  
3 Minister level?

4 A. That's correct. She made that  
5 announcement at a NOTOA convention, I believe it was  
6 '85, '86.

7 Q. And your experience is that that has  
8 been a helpful process?

9 A. It has been excellent in my  
10 experience, less helpful in others. I know of other  
11 districts where they held meetings and I believe three  
12 tourist operators showed up. I believe that was  
13 Dryden, three or four; those kinds of numbers.

14 But the first time we called a meeting I  
15 believe we had 65, 70 people in the district showed up,  
16 tourist operators. Probably -- almost 50 per cent.

17 MR. EDWARDS: Mr. Chairman, I'm getting  
18 very close to a conclusion. I would like to have a few  
19 minutes to consult with Mr. Blake who is here giving me  
20 instructions, and I wonder -- if you'd care, we could  
21 have the noon break early and there would be absolutely  
22 no difficulty in getting finished before three or, if  
23 you care, just have a short break and then continue.  
24 But I would like to consult with Mr. Blake for a few  
25 minutes, if I may.

1 THE CHAIRMAN: Okay. Well, at this point  
2 we might as well take lunch, or have the lunch break  
3 and then come back for the conclusion of your  
4 examination.

5 MR. EDWARDS: Right. I won't be more  
6 than an hour this afternoon.

7 THE CHAIRMAN: You won't be more than an  
8 hour?

9 MR. EDWARDS: Right.

10 THE CHAIRMAN: So then why don't we break  
11 until 12:30 and then we should be finished here by  
12 1:30.

13 MR. EDWARDS: Thank you.

14 MR. FREIDIN: Can we make it 12:45?

15 THE CHAIRMAN: 12:45.

16 MS. BLASTORAH: We have a slight  
17 technical problem in that we have arranged for lunch  
18 for both our support people and our witnesses for  
19 twelve o'clock and it won't be here until then.

20 THE CHAIRMAN: Okay, 12:45. And then we  
21 should be finished by 1:45.

22 MR. EDWARDS: Yes.

23 THE CHAIRMAN: Would that be your  
24 submission?

25 MR. EDWARDS: Yes.



1 THE CHAIRMAN: Very well. Thank you.

2 ---Luncheon recess taken at 11:30 a.m.

3 ---On resuming at 12:50 p.m.

4 THE CHAIRMAN: Be seated, please.

5 MR. TENAGLIA: If I might, Mr. Chairman,  
6 yesterday Mr. Edwards raised a question with respect to  
7 who was consulted in the preparation or review of the  
8 final report on Crown land bridge management and I can  
9 confirm for the Board that all the parties that were  
10 identified on page 57 of that report were provided with  
11 the opportunity to review the report and, more  
12 specifically, Mr. Peter Brooke of the -- the manager of  
13 the access road section had spoke to Bob McKercher of  
14 NOTOA on January th 9th, '89, and Mr. McKercher advised  
15 that they had no comments on the report.

16 THE CHAIRMAN: Thank you.

17 MR. EDWARDS: Mr. Chairman, I checked  
18 the -- rechecked the testimony in-chief and Mr. Adamson  
19 was absolutely right in his testimony in-chief that it  
20 had been circulated, and I guess the date -- the  
21 confusion sending out the request for input after the  
22 date for input had already past, that was a merely a  
23 typographical error and he was absolutely right on  
24 that.

25 I thank Mr. Tenaglia for clearing that up

1 as well. Notwithstanding that, I still have some  
2 questions for Mr. Tenaglia.

3 Q. Sir, dealing with your evidence  
4 respecting tertiary roads, prior to the construction of  
5 a tertiary road does one know which stands of timber  
6 will have to be accessed by the road?

7 MR. TENAGLIA: A. Yes, they would be  
8 approved in the timber management plan.

9 Q. And would you know generally what's  
10 in the stand; you would know the species?

11 A. You would have a pretty good  
12 indication of the species and it depends on whether  
13 you've carried out any operational cruises as to how  
14 accurate the volume estimates are.

15 Q. Would you have some knowledge from  
16 air photos as well--

17 A. Yes.

18 Q. --ordinarily?

19 A. Depending on how recent aerial  
20 photography was and if there has been any natural  
21 disturbance since the aerial photography.

22 Q. Would the silviculture ground rules  
23 be in effect?

24 A. In what respect?

25 Q. Well, would they have been prepared?

1                   A. They are part of the timber  
2 management plan, so yes, they would be.

3                   Q. Yes. And can I assume that the  
4 operator would have some idea of what equipment was  
5 available to it? Would you agree that that's likely to  
6 be the case?

7                   A. In most instances, yes.

8                   Q. Would the operator have some  
9 understanding of what kind of equipment would be most  
10 cost effective, given the particular area that it had  
11 to go into? Would you expect that to be the case?

12                  A. Yes.

13                  Q. Given that they know the equipment  
14 and the nature of the area, would you expect that they  
15 also would know the economic distances which they could  
16 skid the wood?

17                  A. As part of the harvesting?

18                  Q. Yes.

19                  A. Yes.

20                  Q. I noted at page 71 of the witness  
21 statement, page 18 of your document you stated that  
22 maximum skidding distances and efficiency of equipment  
23 being used to carry out operations are important  
24 considerations when locating a network of tertiary  
25 roads throughout an operating area.

1 Do you recall stating that effect in your  
2 written material?

3 A. Yes.

4 Q. And it would be undoubted that when  
5 you are about to start building a tertiary road or  
6 consider the location of a tertiary road that you would  
7 have a secondary road already located?

8 A. Yes, in most cases.

9 Q. Let's us assume for the sake of  
10 argument that you are in the third year of a five-year  
11 plan, a secondary road has been constructed and during  
12 the fourth year a particular tertiary road is planned.  
13 At that stage you know where you are going to cut;  
14 correct?

15 A. Yes.

16 Q. You know the species that you are  
17 going to cut; correct?

18 A. Yes.

19 Q. You know any restrictions on  
20 operations that may exist; correct?

21 A. In the area of concern but not  
22 site-specific limitations.

23 Q. All right.

24 A. In the normal area of operations.

25 Q. You know any restrictions on

1 operations which might arise out of the area of concern  
2 process; would that be correct?

3 A. Yes, that would be identified in the  
4 timber management plan.

5 Q. So you certainly know at that stage  
6 where you can't go?

7 A. Yes.

8 Q. You have got the silvicultural  
9 groundrules; correct?

10 A. Yes.

11 Q. And you certainly know where you are  
12 going to start because you have got to start somewhere  
13 on the secondary road; correct?

14 A. Correct.

15 THE CHAIRMAN: We are getting somewhere I  
16 assume, to a blockbuster question at the end of this?

17 MR. EDWARDS: Yes, Mr. Chairman, I am  
18 trying to proceed.

19 Q. Sir, at that stage in the annual work  
20 schedule why is it not possible to have a map that  
21 tells the bulldozer operator generally where he or she  
22 is going to go?

23 MR. TENAGLIA: A. Because he doesn't  
24 know -- he doesn't know exactly where that tractor may  
25 or may not be able to go. He has a general idea of



1 where it should go, but the specific location cannot be  
2 determined until that operator is on the ground with  
3 the tractor or the cut foreman is out there laying out  
4 the location of that tertiary road.

5 Q. Sir, are you saying that it's  
6 impossible to do that?

7 A. Is it impossible?

8 Q. Yes?

9 A. At what stage in the planning  
10 process?

11 Q. On the annual work schedule basis, is  
12 it impossible to give a general idea where the tertiary  
13 roads are intended to go?

14 A. I question the value of doing that.

15 MS. BLASTORAH: Mr. Chairman, we went  
16 over this extensively before the break this morning and  
17 we have already heard Mr. Tenaglia say, I expect it to  
18 be, six times that it's not practical to do that.

19 MR. EDWARDS: Q. Why is it not practical  
20 in whose --

21 MS. BLASTORAH: He gave about six reasons  
22 this morning why it wasn't practical.

23 THE CHAIRMAN: Well, let's end this  
24 discussion with you answering that question once again  
25 as concisely as you can.

1 MR. TENAGLIA: Can I have the question  
2 once again, Mr. Chairman?

3 MR. EDWARDS: Q. Why is it not  
4 practical, sir, to have a map even on an annual basis  
5 which will indicate the general location of tertiary  
6 roads?

7 MR. TENAGLIA: A. Because even at the  
8 annual stage when the annual work schedule is being  
9 prepared the area that is going to be harvested may not  
10 have been walked, we may not know the exact physical  
11 limitations of where that road can be constructed.

12 Associated with that is also the  
13 seasons -- season of the year in which that area may be  
14 harvested which may have an impact of where the road  
15 can be constructed. If an area is going to be  
16 harvested with a tertiary road in the summertime, it  
17 makes a big difference.

18 The difference in location that the  
19 season in which you are going to access an area may  
20 impact on location of the tertiary road, or even within  
21 the block, the tertiary roads within a harvest block  
22 depends on when the season the area is going to be  
23 harvested.

24 You are correct, at the annual work  
25 schedule stage most of the operators will know what

1 kind of equipment they are going to use, will have an  
2 indication of the kind of -- you know, the amount of  
3 tertiary roads that will be required to be constructed  
4 given the kind of logging system that they are using,  
5 but I don't agree with you in that they can identify  
6 the tertiary roads nor do they need to identify the  
7 tertiary roads at the annual work schedule stage.

8 Q. Do you think it would assist the  
9 public in its understanding of what was going to happen  
10 in the annual work schedule to have those roads set out  
11 in advance?

12 MR. FREIDIN: He said you can't do that.

13 MR. TENAGLIA: I don't believe that it  
14 would assist the public because, again, I believe the  
15 planning process would have accommodated addressing the  
16 areas of concern.

17 Again, most of these tertiary roads are  
18 in the areas of normal operations and in the areas of  
19 concern we would have identified any limitations on the  
20 construction or use of tertiary roads and the public  
21 would have --

22 THE CHAIRMAN: Is it not the case, Mr.  
23 Tenaglia, that if the public were concerned about  
24 something, about some other value, that they would have  
25 objected when you were formulating the plan for the

1 harvesting of that block in the first place?

2 MR. TENAGLIA: Absolutely, and that is  
3 what you indicated this morning, Mr. Chairman.

4 THE CHAIRMAN: And that is how you end up  
5 with the areas which are designated for natural  
6 operation or areas which are in fact designated as  
7 areas of concern?

8 MR. TENAGLIA: Correct.

9 MRS. KOVEN: But surely isn't it the case  
10 with tourist operators that the area that they are  
11 concerned about will not always become part of the  
12 timber management plan. So even after you have gone  
13 through approving the timber management plan, you  
14 haven't been able to accommodate all their concerns and  
15 so they are still left with the situation of something  
16 like this sighting of a tertiary road which would still  
17 concern them?

18 MR. PYZER: If I understand that question  
19 correctly, during the planning process what we often  
20 find is the tourist operator who had - and I think this  
21 is the question you were asking - is that a tourist  
22 operator may well have concerns above and beyond just  
23 the allocated areas and they make those concerns known  
24 and they could be with respect to unallocated areas and  
25 that is why in fact, in terms of the conditions that we

1 would place on tertiary roads for example, that we  
2 would in fact ensure that when you see in fact that  
3 there are two or three areas that have to be allocated  
4 and they are going through areas that are unallocated,  
5 if you will, that we would in fact ensure that we have  
6 discussed those kinds of conditions if in fact they  
7 have a concern.

8 MR. EDWARDS: Q. Mr. Tenaglia --

9 MR. FREIDIN: Can I just indicate, this  
10 matter will be addressed in more detail in Panel No. 15  
11 and just so that I can perhaps indicate what that  
12 evidence will deal with, so Mr. Edwards can decide  
13 whether or not he wants to pursue this, the evidence  
14 will be that the tourist operator through the planning  
15 process can identify his concern in the identification  
16 of a value.

17 You will hear what an area of concern is,  
18 and an area of concern is a geographical area where  
19 operations, if they take place, might affect that  
20 value, in this case a tourist operator. And you will  
21 hear how the area of concern planning process tries to  
22 determine whether they have to have some sort of  
23 prescriptions to protect the value.

24 One of the things that might be  
25 considered and might in fact be the prescription would



1 be: No tertiary roads in certain locations. That is  
2 an option, that process allows for that sort of  
3 discussion to take place.

4 So if it's a concern of the operator you  
5 can ask the witnesses in Panel No. 15 whether in fact  
6 there could be a prescription in appropriate  
7 circumstances which addresses a concern about where  
8 tertiary roads go.

9 THE CHAIRMAN: But presumably if that  
10 doesn't occur, if those values are not identified and  
11 the area is allocated for normal operations, then the  
12 evidence is that the location of a tertiary road would  
13 not likely impact upon another value or it would have  
14 been identified at an earlier stage; is that correct?

15 MR. FREIDIN: That's generally correct.  
16 I mean, people on the planning team rely on the tourist  
17 operators and everyone else to come forward and  
18 indicate what their values are so that the concerns can  
19 be taken into account.

20 If they don't come forward, then...

21 THE CHAIRMAN: Because if they don't come  
22 forward -- would it follow as well, if they don't come  
23 forward, not only might the value that wasn't  
24 identified by them be subjected to a tertiary road, but  
25 it might in fact be subjected to harvesting itself?

1 MR. FREIDIN: Well, Mr. Tenaglia, can  
2 answer that question. I think the evidence in earlier  
3 panels has been that many values get identified by the  
4 Ministry of Natural Resources and the people on the  
5 planning team quite separate and apart from whether the  
6 public come forward if those values which are  
7 identified are in fact values which are of interest to  
8 the public.

9 MR. MARTEL: Can I ask a question,  
10 because something -- I think the word that Mr. Edwards  
11 is using is generally. If I understood this morning,  
12 most of those tertiary roads are not that long, I think  
13 someone said maybe some of them could be two  
14 kilometres.

15 When you are talking generally, how far  
16 astray can you go really -- if you are going to be  
17 confined to a certain cutting area in a general  
18 locality with a road that wouldn't exceed two  
19 kilometres, how far can you go out of whack by just  
20 putting a general location of where a road might go?

21 I think that is what Mr. Edwards is  
22 trying to get at. He's not asking for a specific  
23 indication of you are going to be held to the line no  
24 matter what happens, you know, that in effect what is  
25 wrong with a general locale.

1                   When you take all those factors into  
2                   consideration, there is really not much -- not very far  
3                   you could go awry, because you are moving in a very  
4                   restricted area anyway.

5                   MR. PYZER: I just want to make a couple  
6                   of points before Mr. Tenaglia answers. One, the  
7                   dilemma is when you start talking about generally and  
8                   put things on maps, the generally becomes the specific,  
9                   I think, and then we all lose sight of the fact that  
10                  that was a general location, that is where the road had  
11                  to go, and then we start talking amendments, major,  
12                  minor, and we forget it was general. That is one point  
13                  I would make.

14                  MR. MARTEL: Excuse me right there,  
15                  because would you have to get an amendment. If there  
16                  was an understanding it was just a generality, would  
17                  you have to go for a major, or could that be kind of --  
18                  the type of amendment which the district manager could  
19                  do?

20                  MR. PYZER: I was kind of talking --

21                  MR. MARTEL: Except if it is an area of  
22                  concern.

23                  MR. PYZER: Yes. I was talking  
24                  philosophically.

25                  MR. MARTEL: Yes.

1 MR. PYZER: I have trouble sometimes, I  
2 guess in this forum when we talk about general  
3 understandings and general agreements and those sorts  
4 of things because they become rigid and everyone likes  
5 rules.

6 The other point I was going to make, and  
7 I did want to clear up, is that we are now talking  
8 about tertiary roads being two kilometres. Most  
9 tertiary roads are really little -- a two-kilometre  
10 tertiary road is a big tertiary road.

11 The third point I wanted to make is that  
12 certainly in northern Ontario and the district that I  
13 am most familiar with, throughout the summer period we  
14 are continually going into modified fire guidelines and  
15 we move timber operators tomorrow morning. They will  
16 get a call tonight if the conditions warrant and they  
17 are pulled off all of their operating blocks and they  
18 are told to go to low ground and if they can't go to  
19 low ground, we shut them down.

20 And that means you have got to have  
21 sites. If you are working on upland ridge areas and  
22 they will move to sites where they don't have a  
23 tertiary road into and that is when they start laying  
24 that road out, and those are the kind of operational  
25 considerations that I think we are trying to talk about

1 here, is they have a large number of small operating  
2 areas and for a number of reasons we will shift them  
3 about on a constant basis, on a daily basis and --  
4 well, I'll let Mr. Tenaglia talk about the balance.

5 MR. TENAGLIA: I would agree with you,  
6 Mr. Martel. In a general sense you could identify  
7 location of tertiary roads at the annual work schedule  
8 but the question is, just what do you mean by general?  
9 Is it a hundred metre corridor, is it a 500-metre  
10 corridor?

11 MR. MARTEL: Well, those would be the  
12 parameters you would have to lay down. I mean, I  
13 understand your dilemma. I mean, you don't want to get  
14 boxed in and neither does the producer to being held to  
15 a confined area regardless of what the circumstances  
16 are.

17 I can understand the industry -- the  
18 tourist industry concern, they would just like to know  
19 roughly where you are going to operate and surely the  
20 parameters for that could be defined.

21 I mean, you couldn't be held to something  
22 that is black and white and, you know, come hell or  
23 high water that isn't going to change because that  
24 isn't what anybody -- that isn't going to benefit  
25 anyone either in terms of negotiating and trying to



1 mitigate or to reduce the tensions with the conflict.

2 But I think the thing that amazes me is  
3 that distance isn't that far that we are talking about.  
4 I agree with Mr. Pyzer, they are not very long, and  
5 that's why you have to have the flexibility built in.  
6 I understand that as well.

7 MR. TENAGLIA: I think we have to  
8 remember that tertiary roads are indeed very short-term  
9 roads. They may only last two or three months, short  
10 enough to get the wood out, cut the area and get the  
11 wood out. We may not be able to use those tertiary  
12 roads for renewal purposes, we may have to fly people  
13 in.

14 So for that reason I don't understand, I  
15 guess, the need to have to identify the location even  
16 in a general sense in areas of normal operating areas.

17 MR. EDWARDS: Q. If I could just ask a  
18 couple of questions following the questions of the  
19 members of the Board.

20 Mr. Tenaglia, you still hold to your  
21 position, as set out in your evidence statement, that  
22 the average or the life expectancy of a tertiary road  
23 is normally one to five years. You would agree with  
24 that; would you?

25 MR. TENAGLIA: A. Yes.

1                   Q. Is it not, sir, a procedural concern  
2 of yours rather than a practical concern that makes you  
3 suggest that it would be very difficult or impossible  
4 to list these or map these, and what I am getting at is  
5 this: Are you concerned that it may require a major or  
6 a minor amendment to the timber management plan if you  
7 put these things on a map. Would that be a concern if  
8 you were going to move the location somewhat from a  
9 line drawn on a map?

10                  A. I am concerned that the lines on the  
11 map may mean nothing, that they may have to change when  
12 the operator is in there and that we are just going to  
13 set up a process which will be meaningless.

14                  If the low location is going to change on  
15 a regular basis, I question the value of trying to  
16 identify the location of those tertiary roads.

17                  Q. Would there be any harm in attempting  
18 that?

19                  A. Again, I question the value. If we  
20 have identified all the areas of concern and identified  
21 the restrictions on the tertiary roads, then why do we  
22 need to identify the tertiary roads in areas of normal  
23 operations.

24                  Q. Is it your experience, sir, at these  
25 public information sessions that the public comprehends

1 the material better if maps are  
2 A. Maps are available.  
3 Q. Yes, but is it  
4 they help the members of the public  
5 going on?  
6 A. Of course.  
7 Q. Yes. And it's  
8 go through the timber management plan  
9 foot thick in the afternoon that  
10 public comment is it?  
11 A. No, you are wrong.  
12 30-day review period, people can  
13 plan on their leisure. We will  
14 show the plan at their residence  
15 are not limited to an afternoon  
16 Q. How long are  
17 A. For what?  
18 Q. Public input.  
19 A. They are a 30-  
20 input period.  
21 A. I appreciate  
22 A. And for the  
23 A. It's getting to  
24 A. And for the mo  
25 a guess that we extend that period

1 comments that we generally receive.

2 Q. On an annual basis will the tertiary  
3 roads at least be drawn onto a map so that in the  
4 annual work schedule for 1990 you can look at what  
5 tertiary roads were built in 1989?

6 A. No. We don't report on an annual  
7 basis the location of tertiary roads.

8 Q. So if one is looking at an annual  
9 work schedule for 1990 you won't even know where the  
10 1989 roads are unless you've flown over or walked the  
11 ground yourself?

12 A. They -- generally not.

13 Q. Is that impossible to do?

14 A. To draw in the...?

15 Q. '89 roads in early 1990.

16 A. The annual work schedules for the FMA  
17 companies are required, I believe it's November 1st or  
18 November 31st, that the companies have to submit their  
19 annual work schedules. At that point in time we have  
20 only gone through seven months of operations, so you  
21 are going to get an incomplete picture and I would  
22 suggest that -- can you follow me on that?

23 Q. I can follow you. I am curious, does  
24 much road building take place in the winter months, I  
25 mean other than winter roads?

1 A. Just as much as in the summertime.

2 Q. I see.

3 A. Again, tertiary roads are going in  
4 just before the harvesting operations for the most  
5 part. And so what you are going to get in November is  
6 you are going to get seven months of tertiary roads if  
7 you want that in an annual work schedule, and I  
8 question the value of that.

9 Q. Well, do you think it would...

10 A. And then there is obviously a lead  
11 time required to take supplementary aerial photography  
12 to locate the exact location of the tertiary roads so  
13 you might get a half year's picture, if that much.

14 Q. Well, you showed a map or you  
15 produced a map of Doucette Township which I believe is  
16 in Wawa District which had some tertiary roads drawn on  
17 that. How do you ever get to a map with tertiary roads  
18 drawn in? At what stage is one available?

19 A. We can produce it if we want to.

20 Q. All right. But when do the members  
21 of the public get a chance to look at it?

22 A. After the fact.

23 Q. Even after the fact, yes. I mean,  
24 you have told me that you can't do it on a yearly  
25 basis?



1                   A. We don't normally identify the  
2 location of tertiary roads in any annual reports and I  
3 think that may be appropriate for Panel 15 or Panel 16  
4 to address that in their annual reports.

5                   Q. All right. Perhaps I will raise that  
6 issue with Panel 15 then, sir.

7                   Sir, however, if these tertiary roads  
8 aren't on a map, which is generally available at any  
9 time, how would a member of the public who hasn't  
10 actually been to the site trace where the operations  
11 have occurred?

12                  THE CHAIRMAN: Well, what is the value  
13 that is being impaired if they don't know where the  
14 tertiary road is in the first place, or they haven't  
15 identified the value that they wanted to protect so  
16 that the road wouldn't have been built in the first  
17 place?

18                  I mean, there has to be an impact from  
19 this road. Why would they not be aware of the impact  
20 from the road if they don't know where the road is?

21                  MR. EDWARDS: If the tertiary road is  
22 knocked through in November, goes into a remote lake  
23 which is used for fly-in purposes, it may be months  
24 before somebody in the business of my clients discovers  
25 its location and it ought not to be the individual

1 members of the public - and that can be any public, I  
2 am not just talking about tourist outfitters - who has  
3 to know who has been cutting where. It should be  
4 traceable.

5 THE CHAIRMAN: But would not your client  
6 in that scenario have been aware at an earlier stage  
7 that there was intended to be harvesting in the  
8 vicinity of that remote lake, at that point he would  
9 have come forward supposedly and said: I want this to  
10 be an area of concern, I have a value I want protected  
11 here, not only do I not want a road built but I don't  
12 even want it harvested here.

13 MRS. KOVEN: But surely, Mr. Chairman,  
14 that is the problem that a person's identification of  
15 an area of concern is not automatically -- it doesn't  
16 automatically become one in the timber management  
17 process.

18 I mean, I think that is part of the  
19 dispute. The Ministry is not saying that every request  
20 for an area of concern is granted.

21 MS. BLASTORAH: Mrs. Koven --

22 MRS. KOVEN: And also I think the NOTOA  
23 position has been in the past that even where there are  
24 areas of concern identified on lakes, it's not usually  
25 the entire shoreline and so there are impacts from

1 other parts of the lake.

2 MR. EDWARDS: That is a very fair summary  
3 of our concerns.

4 MR. PYZER: But I think the key point is,  
5 is that while it may have raised an issue or an area of  
6 concern, whatever the Ministry did with that, whether  
7 they -- whatever the final decision would have been  
8 reflected in the final plan.

9 So to use Mr. Edwards' term, you  
10 wouldn't -- if the road was knocked through to the  
11 lake, they would have known that it was the Ministry's  
12 approved plan to knock it through to the lake. It  
13 wouldn't be something that you would find out by flying  
14 over it, it would be something that would be in an  
15 approved timber management plan. It would be a  
16 decision.

17 THE CHAIRMAN: Or it would be designated  
18 an area of concern?

19 MR. PYZER: Absolutely.

20 THE CHAIRMAN: Because --

21 MR. PYZER: In all honesty, I don't  
22 believe we would be knocking it through to the lake and  
23 given bump-ups and all the other appeal mechanisms and  
24 whatnot, we would have run its course before in fact  
25 that final decision was either affirmed or amended.

1                   THE CHAIRMAN: I guess, Panel, the  
2                   problem I am having in understanding this - and I don't  
3                   know if anyone else is sharing my degree of confusion -  
4                   is the fact that before you get to the roads question  
5                   at all, in terms of a tertiary road, you have to get  
6                   over the harvesting question, you have to get over the  
7                   question as to whether or not there is going to be any  
8                   activity in that area; i.e., harvesting which will  
9                   necessitate the building of a road to get in, whether  
10                  it's for harvesting or reforestation or maintenance or  
11                  tending or anything else. And anybody who has a  
12                  concern in terms of a value that they want protected  
13                  would have input to the planning process in terms of  
14                  the harvesting decision or the activity decision before  
15                  you get to the secondary decision after you have made  
16                  that one that there shall or shall not be a road -- a  
17                  tertiary road somewhere.

18                  And, therefore, I can't understand, Mr.  
19                  Edwards, where the area of surprise is to the members  
20                  of the public that would be concerned with the  
21                  protection of values out there because the decision to  
22                  harvest would already have been made in accordance with  
23                  the regular planning process.

24                  I don't know. Is that essentially the  
25                  way it works or am I completely off base?

1                   MR. PYZER: Well, that is exactly the way  
2 it does work and certainly Mr. Edwards has indicated  
3 from his client's perspective one of the key concerns  
4 of NOTOA, if not the key concern, has been access.

5                   And clearly when tourist operators come  
6 into the district they want to talk about access and  
7 they want to talk about access from a primary road,  
8 secondary road and they want to talk about those  
9 conditions to tertiary as well as where are the areas  
10 where we don't want them to go.

11                  It's not like the tourist industry walks  
12 in saying: We weren't aware you were building roads.  
13 Mr. Edwards has stated for two days, and I agree with  
14 you one hundred per cent, it's NOTOA's big concern.  
15 That is why they want to talk to us about those  
16 conditions and where tertiary roads shouldn't go well  
17 in advance of them ever being laid out and planned.

18                  MR. EDWARDS: Q. If I might just ask one  
19 question arising out of a question from the Board.

20                  Mr. Pyzer, would it be your evidence that  
21 every time an area of concern is expressed or concern  
22 over an area is expressed by a member of the public  
23 that doesn't automatically mean that that area becomes  
24 an "area of concern"?

25                  MR. PYZER: A. No. But again, the fact



1       that usually -- if it wasn't designated as an area of  
2       concern for whatever reason and the Ministry chose to  
3       do something about that, those are the kinds of -- and  
4       I contend that they are fairly isolated - but those are  
5       what become the issues.

6                 Rarely do people accept that decision.  
7       They say: This is an area of concern, I don't want a  
8       tertiary road or I don't want a road or I don't want a  
9       road, or I don't want to see harvesting and this is an  
10      area of concern. And if in fact the Ministry did not  
11      follow through on that, I contend that they don't leave  
12      it there, that becomes either a political issue or my  
13      boss hears about it, or a NOTOA executive hears about  
14      it and occurs at one of those annual meetings. It is  
15      taken somewhere. People don't walk away from those  
16      when their areas of concern are not treat accordingly.

17                But regardless of that, there still is a  
18      decision and that decision is what the Ministry will do  
19      relative to all that information that has come forward  
20      and you can see that at the plan review stage and there  
21      are mechanisms by which you can deal with the decision  
22      if you don't like it.

23                Q. Does identification of an area of  
24      concern in any way preclude the creation of a tertiary  
25      road inside that area?

1 A. It could well, absolutely.

2 Q. It could, but it doesn't have to?

3 A. Well, it would depend on what the  
4 area of concern was and what the -- and if the concern  
5 was relative to tertiary roads, then absolutely that is  
6 exactly what we would deal with.

7 And if the tourist operator did not want  
8 the tertiary road within a certain distance or a  
9 certain location or certain time of year, wanted to see  
10 controls on when he heard the vehicles operating during  
11 the day or night, during the spring, fall, those are  
12 all the kinds of conditions we would put on that  
13 tertiary road.

14 Q. Sir, if a road is put through  
15 improperly; that is to say, in violation of  
16 prescriptions and damage to a tourism value or any  
17 other value occurs, does the Ministry see it as its  
18 role to know who put the road through?

19 A. Yes.

20 Q. To make sure that the damaging party  
21 is traceable?

22 A. Yes.

23 Q. To say can be located?

24 A. Yes.

25 Q. The monitoring of the location of the

1 road as to whether it fits the prescription is the  
2 responsibility of the MNR?

3 A. That's correct.

4 THE CHAIRMAN: Will that be dealt, Mr.  
5 Freidin, in the monitoring panel in detail?

6 MR. PYZER: Yes.

7 MR. FREIDIN: I think the issue of  
8 trespassing certainly was raised by Mr. Edwards in one  
9 of the very early panels and I indicated then that the  
10 enforcement related issue were issues which would in  
11 fact be dealt with in Panel 16.

12 MR. PYZER: We certainly have had  
13 occasions where our conservation officer will go out  
14 and do a thorough investigation and determine -- in  
15 fact we just dealt with one very recently in Kenora  
16 District.

17 MR. EDWARDS: Q. If damage occurs to the  
18 tourist business by reason of an improper access --

19 MR. FREIDIN: I'll let you finish the  
20 question, but if you are going to ask him if the  
21 Ministry feels they should compensate them, et cetera,  
22 et cetera, indeed I think we have dealt with that.  
23 Again, I think we are getting into monitoring.

24 THE CHAIRMAN: I think in fairness, Mr.  
25 Edwards, when we get to the monitoring panel the Board

1 is going to be interested in a whole series of  
2 violations that may occur in the planning process and  
3 what results from that.

4 MR. EDWARDS: If I can just have a  
5 moment, Mr. Chairman, I am very close.

6 MR. MARTEL: Maybe I can ask Mr. Pyzer a  
7 question in the meantime.

8 Have you ever had a situation where, for  
9 example, you had an area of concern but there was just  
10 simply no way to get around it, two lakes very close  
11 together, if you cut your right-of-way through you  
12 would have to go through there anyway and that would --  
13 you might well not want to but circumstances, economic  
14 and otherwise, might force you to go -- does that occur  
15 occasionally?

16 MR. PYZER: Yes. I can visualize when  
17 that would and, although I have never seen one, I could  
18 visualize probably a gate on a tertiary road in that  
19 kind of an instance or a closure for a very small  
20 portion, a sign up.

21 I have never seen a gate on a tertiary  
22 road but it would certainly be an option.

23 THE CHAIRMAN: But is it not in every  
24 case a balancing of competing interests?

25 MR. PYZER: Yes.

1                   THE CHAIRMAN: So if somebody identifies  
2                   an area of concern, but there is other concerns or  
3                   other interests of other parties, you may in some  
4                   circumstance go against that person raising the concern  
5                   in favour of other interests because the value  
6                   associated with the other interest in the scheme of  
7                   things is just heavier in weight, so to speak?

8                   You can't accommodate everybody all the  
9                   time?

10                  MR. PYZER: That's right. At least you  
11                  can't make -- in terms of wanting to do a win/win, you  
12                  may not come out with a hundred per cent on two sides,  
13                  but you may well wind up with a 92/78 if you put scores  
14                  to it sort of thing.

15                  MR. FREIDIN: Mr. Chairman, just so there  
16                  is no misunderstanding, we will deal in Panel No. 15  
17                  with situations like you have described. Primary and  
18                  secondary roads can in fact go into areas of concern  
19                  and that gives rise to a planning -- additional  
20                  planning requirements and documentation that you will  
21                  hear about.

22                  So I just don't want to leave the  
23                  impression that primary and secondary roads don't go  
24                  through areas of concern and considerations aren't  
25                  taken into account.



1 MR. MARTEL: I'm speaking primarily of  
2 tertiary.

3 MR. PYZER: We had an instance very  
4 recently, in fact within the last few months, where a  
5 road got illegally or pushed through an area and was  
6 investigated by the conservation officer, we determined  
7 the person who did it. It was a remote fly-in tourist  
8 lake, created tremendous impact on the tourist operator  
9 himself. And you could ask the question: What can we  
10 do in terms of charging. It turned out to be the  
11 tourist operator himself who built the road.

12 MR. MARTEL: I think Mr. Tenaglia was  
13 going to answer something further to my question.

14 MR. TENAGLIA: Yes. In response to your  
15 question, Mr. Martel, a technique generally used in --  
16 if we're going to build a tertiary road in a very  
17 sensitive area, as your example cited between two  
18 lakes, would be possibly a winter access road and  
19 restrict the harvesting just to winter so that there is  
20 absolutely no potential conflicts with the summer use  
21 on the lakes.

22 MR. EDWARDS: I think I have one last  
23 question.

24 Q. Mr. Pyzer, if a road is put through  
25 improperly by whoever; that is to say, a lake is

1       accessed in violation of the prescriptions, who is  
2       responsible for correcting the problem?

3               MR. PYZER:  A.  Again, if I could draw on  
4       this particular example, and it's not to pick on the  
5       person because he did it entirely sincerely.

6               We had a road, an access road, and we had  
7       intentionally -- we laid out this road going through  
8       the planning process and whatever, it did not access  
9       the lake.

10              There was a tourist camp on it and the  
11      fellow chose to push a road through in the winter time.  
12      He bladed a road through, he bladed it through an area  
13      we had scarified, he bladed it through the reserve that  
14      we had created along the lakeshore and that saved him  
15      \$20-, \$30,000 as opposed to having flying the equipment  
16      in.

17              The lake got discovered by people in  
18      Kenora District unfortunately, and everyone -- not  
19      everyone, but in his words everyone was coming up to  
20      fish on that lake, and it created a major problem for  
21      us.  And the first step was we came out and there was  
22      no sense charging the person in that case.  You could  
23      say he did it to himself, but he didn't do it  
24      intentionally.

25              I mean, those are the sorts of things

1       that you have to weigh. It is an unfortunate -- now,  
2       what did we do?

3                       We came out, the Ministry went in. We  
4       sent our own crews in, we pulled the road out, we  
5       pulled culverts out, we flew up and we monitored what  
6       was happening there. People still came in on  
7       four-wheel drives and quads.

8                       We've now come out to the highway and  
9       we're now out to the main access road and we've pulled  
10      out another set of culverts there, we've sent  
11      conservation officers up, we're monitoring it on a  
12      day-to-day basis.

13                      So in the last six months on that  
14      particular instance we have sent our own people up,  
15      we've paid for that road to be pulled out, and we're  
16      trying to render it as impassable as possible and we  
17      are monitoring to make sure other people don't go down.

18                      Q. What about the situation where it's  
19      somebody who doesn't do it to himself, as you put it?

20                      A. No difference.

21                      Q. Who's responsible in those  
22      circumstances?

23                      A. If we can find out who did it we  
24      would charge probably the person for doing it and there  
25      are a number of possible areas that we could lay those

1 charges. a.

2 You'd have to look and see whether it was  
3 intentional, unintentional, what the reasons were, was  
4 it an honest mistake that he thought he was following a  
5 corridor and he, for whatever reason, got off the  
6 corridor. You'd have to look at what the impacts were.

7 Q. Is there any difficulty, sir, in  
8 finding out who's responsible in these circumstances?

9 A. Many times, sure. You may find a  
10 trail or a path through the bush and not know who built  
11 it.

12 Q. Is there difficulty in -- if a  
13 company, whether the forest management agreement holder  
14 or a sub-contractor were to access a lake or to go  
15 beyond the prescriptions, create some type of improper  
16 access--

17 A. Yes.

18 Q. --in that circumstance, is there any  
19 difficulty in your view in finding who's responsible?

20 A. Actually -- probably it's easier to  
21 deal with companies in terms of enforcement and getting  
22 mitigation and getting it resolved than most of the  
23 other situations.

24 Q. Who in that circumstance, in your  
25 view, would be responsible for correcting the problem?

1 Does the Ministry carry the can or does the company?

2 A. My initial reaction would be in most  
3 cases we would get the company to do it.

4 MR. EDWARDS: Thank you very much,  
5 members of the panel, those are my questions.

6 Thank you, Mr. Chairman.

7 THE CHAIRMAN: Thank you, Mr. Edwards.

8 Ladies and gentlemen, before we rise for  
9 the week the Board wants to make a very brief statement  
10 about a concern that has plagued us now for some time,  
11 and that is the time we are losing over being available  
12 to hear further evidence and the witnesses not being  
13 available to put in that evidence.

14 Now, I don't want to misconstrue --

15 MR. FREIDIN: The witnesses not being  
16 available?

17 THE CHAIRMAN: Sorry, the parties -- not  
18 the witnesses, the other parties who are usually  
19 cross-examining--

20 MR. FREIDIN: Thank you.

21 THE CHAIRMAN: --are not ready to go. I  
22 think it is going to necessitate a change in procedure  
23 as far as the way we are going to handle the remainder  
24 of the case.

25 We have taken pains, as you are probably



1 all aware, to in some cases sit very long hours. We  
2 have started on some occasions as early as eight  
3 o'clock, we have sat as late as eleven o'clock on the  
4 odd occasion.

5 The purpose in us sitting some of those  
6 lengthy hours is to ensure that, where it is  
7 unavoidable because we are losing hearing days,  
8 particularly on the part of the Board members who for  
9 one reason or another cannot always be here together on  
10 the same day, we have attempted to make up that time by  
11 sitting lengthier hours.

12 We have attempted to institute various  
13 procedures such as scoping, the avoidance of repetition  
14 of earlier evidence and generally have attempted to  
15 conduct the hearing in a manner which will expedite the  
16 putting in of the overall case.

17 What we are finding, however, is although  
18 we are making some strides in those areas, we are not  
19 appreciably shortening the overall time for this entire  
20 case. What we are gaining on the individual day in  
21 terms of the evidence coming in we are losing by being  
22 up here, in this case for instance, idle for a day and  
23 a half.

24 Now, we are certainly not going to  
25 castigate counsel in any way for being less time than

1 they anticipated in their cross-examinations, or in the  
2 case of the applicant of putting in the direct  
3 evidence.

4 We realize that it is very difficult for  
5 counsel to be able to accurately anticipate how long  
6 they are going to be; a lot of it depends on the  
7 questions asked, a lot of it depends on the  
8 interjections by the Board and the direction the Board  
9 is taking with its own questioning, and a lot depends  
10 on the answers preferred by the panel.

11 Notwithstanding that, we are going to, I  
12 think, institute a procedure that the party who is next  
13 in line is going to be kept aware by Mr. Mander of  
14 exactly where the party preceding is in their  
15 examination and is going to be expected to, in effect,  
16 be on tap to go when they are reached.

17 We will not be affording the parties the  
18 luxury I think in the future of indicating that they  
19 will not have to present their cross-examination or, at  
20 a later stage, their evidence on a fixed day such as we  
21 did - and this is by no means by way of criticism, Dr.  
22 Quinney - as we did with OFAH to indicate that they  
23 could present their cross-examination on a fixed day, I  
24 think it was the 11th of September. That was  
25 predicated, of course, on an estimation by the various

1 parties that we would occupy fully our time up until  
2 that point in time and, for one reason or another, that  
3 particular party requested that they be given a fixed  
4 day.

5 I think we are going to request that all  
6 parties in the future be ready to go in the order that  
7 they are expected to present either their  
8 cross-examinations or their evidence.

9 Now, there will be some deviations from  
10 time to time, we will be flexible and take into account  
11 special circumstances, but I think we are going to have  
12 to get more on the basis that the courts of law use  
13 and, that is essentially: You are participating in a  
14 major case, it is an expensive process to both the  
15 public, the parties and the Board and, as a  
16 consequence, we do not want to delay the overall length  
17 of time that it is going to take to complete this case  
18 and get to a decision, and we find that we are wasting  
19 a number of days on the basis that, for one reason or  
20 another, the party next in line is not ready to go.

21 Where the Board can't sit on a scheduled  
22 day, it will attempt to make up the time by sitting  
23 longer hours. Where certain parties can't be here for  
24 a very good reason, we would ask, firstly, that they  
25 give notification to Mr. Mander as early as possible;

1 and, secondly, that we make every attempt to have  
2 another party fill in so that we aren't left with  
3 situations where we are up here, the witnesses are up  
4 here, counsel are up here, we are ready to go, and we  
5 run out of evidence or we run out of the ability to  
6 cross-examine and have to shut down the hearing, in the  
7 case of this week, a day and a half early.

8 We are most appreciative of all your  
9 efforts to keep your examinations concise and shorten  
10 your presentations where possible, but we do think that  
11 something has to be done with the scheduling of the  
12 next party in line.

13 So we will be issuing some instructions  
14 to Mr. Mander to perhaps circulate in writing to all  
15 the parties so that they will be expected in the future  
16 to keep a watching brief on where we are and be  
17 prepared to participate in the order that they are  
18 expected to participate and, in that way, hopefully we  
19 will have an overall shortening of the process, because  
20 it doesn't make much sense to us to sit these lengthy  
21 hours only to end up with the hearing taking exactly as  
22 long as it would have taken had we not sat the longer  
23 hours.

24 It is an imposition both on the Board and  
25 the parties because we are dealing with some very

1 technical evidence and it is somewhat trying to sit  
2 here for eight, nine, ten hours in some cases only to  
3 find out that during that week of testimony we have  
4 lost the time anyways.

5 So having said that, the Board wishes you  
6 a pleasant weekend. We will see you here next Tuesday  
7 at 1:00 p.m.

8 MS. BLASTORAH: Mr. Chairman, just on  
9 that point, perhaps it might be helpful to the parties,  
10 like other individual parties or just the general  
11 public who are following the hearing and might be  
12 interested in hearing the cross-examination of a  
13 particular party, it might be helpful if progress  
14 reports could also be given on the 1-800 number that  
15 the Board has provided so that the general public can  
16 be kept aware of the progress of cross-examination.

17 In most cases, by the end of a given day  
18 we have some sense of where we are.

19 THE CHAIRMAN: If I am not incorrect, I  
20 think that is already being done. If you call up the  
21 Board's 1-800 number there is a statement given every  
22 day at the conclusion of the proceedings as to who is  
23 cross-examining and how long they are expected to  
24 continue cross-examining and who comes next.

25 MS. BLASTORAH: I'm sorry, Mr. Chairman,



1 I haven't had occasion to call that number so I wasn't  
2 aware of that.

3 THE CHAIRMAN: It is already being done  
4 for that very reason.

5 We will adjourn until 1:00 p.m. on  
6 Tuesday. Thank you.

7 ---Whereupon the hearing adjourned at 1:50 p.m., to be  
8 reconvened on Tuesday, September 5th, 1989,  
9 commencing at 1:00 p.m.

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